APPENDIX "A"

Complaint filed in United States District Court for Eastern District of Michigan, Southern Division in Cause entitled below:

(Filed, Jan. 14, 1957)

WILLIAM W. VOISINE, FRANCIS LABADIE, ALBERT BUDAY AND ELMER KORN, **Complainants,** **- vs -** **JOHN W. CONLIN, G. MENNEN WILLIAMS, THEODORE R. BOHN AND THOMAS M. KAVANAGH** **Defendants.**	**No. 16338**

COMPLAINT

Now comes William W. Voisine, Francis Labadie, Albert Buday and Elmer Korn, complainants herein, and for their cause of action state:

1. That this court has jurisdiction of the complainants and defendants herein named, and likewise has jurisdiction over the subject herein alleged and for the relief herein sought by virtue of 62 Statutes 986 (C. 646 June 25, 1948), Title 28 United States Code Annotated 2281, Title 28 Section 2283, United States Code Annotated and Title 28, Section 2284 of the United States Code Annotated and under 28 United States Code Annotated 2201, being Section 111, 63 Statutes 105 as Amended May 24, 1949, and Section 2 of Article III of the Constitution of the United States.

2. That this court has the further jurisdiction to grant the injunctive relief herein prayed for under Rule 65 of the Federal Rules of Civil Procedure, because of the unique irreparable damage and injury that will be done to the complainants herein unless said injunctive relief is granted by virtue of the facts hereinafter alleged.

3. That Section 10 of Article I of the Constitution of the United States provides as follows:

> "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."

4. That Section 2 of Article III of the Constitution of the United States provides as follows:

> "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

5. That Section 2 of Article VI of the Constitution of the United States provides as follows:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

6. That Article V of the Amendments to the Constitution of the United States provides as follows:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

7. That Article VI of the Amendments to the Constitution of the United States provides as follows:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence."

8. That Article XIV of the Amendments to the Constitution of the United States provides as follows:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

9. That the complainant herein, William W. Voisine, is the duly elected, qualified and acting Mayor of the City of Ecorse, County of Wayne and State of Michigan; and the other complainants, namely: Francis Labadie, Albert Buday and Elmer Korn, are part of the duly elected, qualified and acting members of the City Council of the City of Ecorse, Wayne County, Michigan.

10. That during the month of August, 1956, a majority of the Judges of the Third Judicial Circuit of the County of Wayne and State of Michigan, in pursuance of a petition filed with said court entitled:

> "In the Matter of the application of Thomas M. Kavanagh, Attorney General of the State of Michigan, and Gerald K. O'Brien, prosecuting attorney for the County of Wayne, for a judicial investigation concerning criminal offenses and unlawful practices in the Township of Taylor, the City of Ecorse, and other governmental units in the County of Wayne—Misc. No. 83258",

did subsequently enter an order appointing as a One-Man Grand Juror, the Honorable Theodore R. Bohn, defendant

herein, who is a Circuit Judge in and for the County of Wayne, and part of the Third Judicial Circuit of the State of Michigan.

11. That thereafter the Honorable Theodore R. Bohn, Wayne County Circuit Judge, acting as a One-Man Grand Juror, did surround himself with certain State Policemen, City Policemen, Assistant Attorneys General, and other persons which can be described as part of the One-Man Grand Jury wherein and whereby they commenced investigating alleged illegal practices in the City of Ecorse, County of Wayne and State of Michigan.

12. That subsequent thereto the complainants herein, together with all other persons from the City of Ecorse herein indicted in accordance with Appendix "A" attached hereto and made a part hereof, were subpoenaed in before said One-Man Grand Jury and without being advised of any of the constitutional rights as set forth in Paragraphs 3, 4, 5, 6, 7, 8 and 9 above, were questioned at great length pertaining to their own personal affairs in direct violation of Article V of the Amendment to the Constitution of the United States being Paragraph 7 hereinbefore quoted.

13. That each and all of the complainants herein and the other indictees named in Appendix "A" were compelled under threats of contempt or indictment to answer any and all questions propounded to them by the One-Man Grand Juror, or the staff of the One-Man Grand Juror, without regard to their Federal constitutional rights and without being advised that it was the particular witness or witnesses whom the Grand Jury sought to indict and not some other person or persons, all in violation of the constitutional rights hereinbefore named.

14. That subsequently, and on or about the middle of October 1956, the unique One-Man Grand Juror issued a warrant against the four above named complainants and the other indictees named therein by virtue of the provisions of Compiled Laws of 1948, Section 767.3, being Michigan Statutes Annotated 28.943, which provides as follows, to-wit:

> "Whenever by reason of the filing of any complaint, which may be upon information and belief, or upon the application of the prosecuting attorney or attorney general, any judge of a court of law and of record shall have probable cause to suspect that any crime, offense or misdemeanor shall have been committed within his jurisdiction, and that any persons may be able to give any material evidence respecting such suspected crime, offense or misdemeanor, such judge in his discretion may make an order directing that an inquiry be made into the matters relating to such complaint which order, or any amendment thereof, shall be specific to common intent of the scope of the inquiry to be conducted, and thereupon conduct such inquiry: Provided, That in any court having more than 1 judge such order and the designation of the judge to conduct the inquiry shall be made in accordance with the rules of such court. Thereupon such judge shall require such persons to attend before him as witnesses and answer such questions as such judge may require concerning any violation of law about which they may be questioned within the scope of the order; and the proceedings to summon such witness and to compel him to testify shall, as far as possible, be the same as proceedings to summon witnesses and compel their attendance and testimony, and such witnesses shall not receive any compensation or remuneration other than witness fees as paid witnesses in other criminal proceedings, and said witness

shall not be employed in any capacity by the judge or by any person connected with such inquiry, within the scope of the said inquiry being conducted. Whenever a subpoena shall be issued by the judge conducting such inquiry, commanding the appearance of a witness before such judge forthwith upon the service of such subpoena, and, following the service thereof, such witness arrives at the time and place stated in such subpoena, the judge so issuing the same shall be forthwith notified of such appearance by the officer serving the subpoena, and it shall thereupon be the duty of such judge forthwith to appear and take the testimony of such witness. Any person called before the grand jury shall at all times be entitled to legal counsel not involving delay and he may discuss fully with his counsel all matters relative to his part in the inquiry without being subject to a citation for contempt. All matters so revealed to the attorney shall be subject to the requirements of secrecy in section 4, and any revelation thereof by the attorney shall make him subject to punishment as provided in said section. No testimony shall be taken or given by any witness except in the presence of the judge.

Any judge, prosecuting attorney or special prosecuting attorney, or the attorney general participating in any inquiry under this section which continues more than 30 calendar days shall thereafter be disqualified from appointment or election to any office other than one held at the time of such inquiry: Provided, That such disqualification shall not extend more than 1 year from date of termination of such inquiry, as determined by final order of said judge entered prior to such date."

15. That other One-Man Grand Jury sections involved are Compiled Laws of 1948, Section 767.4, being Michigan

Statutes Annotated 28.944, which provides as follows, to-wit:

"If upon such inquiry the judge shall be satisfied that any offense has been committed and that there is probable cause to suspect any person or persons to be guilty thereof, he may cause the apprehension of such person or persons by proper process and, upon the return of such process served or executed, the judge having jurisdiction shall proceed with the case, matter or proceeding in like manner as upon formal complaint: Provided, That the judge conducting the inquiry under section 3 of this act shall be disqualified from acting as the examining magistrate in connection with the hearing on the complaint or indictment, or from presiding at any trial arising therefrom, or from hearing any motion to dismiss or quash any complaint or indictment, or from hearing any charge of contempt under section 5 hereof, except alleged contempt for neglect or refusal to appear in response to a summons or subpoena. And if upon such inquiry the judge shall find from the evidence that there is probable cause to believe that any public officer, elective or appointive and subject to removal by law, has been guilty of misfeasance or malfeasance in office or wilful neglect of duty or of any other offense prescribed as a ground of removal, the said judge shall make a written finding setting up the offense so found and shall serve said finding upon the public officer, public board or body having jurisdiction under the law to conduct removal proceedings against said officer. And said findings shall be a sufficient complaint as a basis for removal of said officer and the public officer, public board or public body having jurisdiction of removal proceedings against said officer shall proceed in the method prescribed by law for a hearing and determination of said

charges. Except in cases of prosecutions for contempt or perjury against witnesses who may have been summoned before the judge conducting such inquiry, or for the purpose of determining whether the testimony of a witness examined before such judge is consistent with or different from the testimony given by such witness before a court in any subsequent proceeding, or in cases of disciplinary action against attorneys and counselors in this state, any judge conducting such inquiry, any prosecuting attorney and other persons who may at the discretion of such judge be admitted to such inquiry, who shall while such inquiry or while in the services of such judge or after his services with such judge shall have been discontinued, utter or publish any statement pertaining to any information or evidence involved in any such inquiry, or who shall disclose the fact that any indictment for a felony has been found against any person not in custody or under recognizance, or who shall disclose that any person has been questioned or summoned in connection with any such inquiry, or who shall disclose or publish or cause to be published any of the proceedings of such inquiry otherwise than by issuing or executing processes prior to such indictment, or shall disclose, publish or cause to be published any comment, opinion or conclusions related thereto, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 1 year or by a fine of not less than $100.00 nor more than $1,000.00 or both such fine and imprisonment in the discretion of the court, and such offense when committed by a public officer shall also constitute malfeasance in office. Upon the termination of such inquiry if the judge shall make no presentment of crime or wrong-doing as to any person or persons whose apprehension or removal from office he has not so caused, he

may, in his discretion, with the consent of the person who may be named, file with the clerk of the county in which such inquiry has been conducted, a report of no finding of criminal guilt as to any person or persons involved in such inquiry, either as witness or otherwise whose involvement in such inquiry has become public.

No inquiry or proceeding hereunder shall continue longer than 6 months unless extended by specific order of said judge or his successor for an additional period not to exceed 6 months.

In the event any judge conducting such inquiry shall be unable to continue therein because of physical disability, disqualification, termination of office or death, the presiding circuit judge of Michigan shall appoint a successor."

16. That the unique Michigan One-Man Grand Jury Act commences with Compiled Laws 1948, 767.1, being known as Michigan Statutes Annotated 28.941 and continues and concludes with Compiled Laws of 1948, Section 767.6, the same being Michigan Statutes Annotated 28.946.

17. That the various sections purport to give the Michigan unique One-Man Grand Juror power to have complete secrecy of proceedings, to punish for contempt in case a witness should fail to appear, to subpoena and re-subpoena witnesses, to permit newspaper reporters to be confidential and privileged in respect to their communications with and to said One-Man Grand Juror among other powers in the Act so enumerated.

18. Complainants further charge that Compiled Laws 767.4, being Michigan Statutes Annotated 28.944, is void and unconstitutional in that it is in direct contravention of

the Constitution of the United States, in that it permits the unique One-Man Grand Juror to place in operation what is commonly referred to as a bill of attainder in violation of Section 10 of Article I of the Constitution of the United States.

19. Complainants further charge that said section permits and allows (commands) the unique One-Man Grand Juror to indict a person for a crime, then to institute removal proceedings before the Governor of the State of Michigan, thereby directly violating Section 2 of Article III of the Constitution of the United States in that said One-Man Grand Juror in said removal proceeding is taking from the hands of the Courts of the State of Michigan, or the Courts of the United States, the judicial power as is vested in them by virtue of Section 2 of Article III of the Constitution of the United States.

20. That the section of the Michigan unique One-Man Grand Jury Act hereinbefore quoted takes away from the person indicted for a crime by virtue of the institution of removal proceedings against him, the rights guaranteed to him under Article V of the Amendments to the Constitution of the United States in that he is placed in jeopardy of life and limb, is compelled to testify in a case against himself prior to the time that he may go to trial on the criminal indictment.

21. That in the particular proceeding before this court, Article VI of the Amendments to the Constitution of the United States, as is more hereinafter set forth, has been grossly violated because the complainants herein have been denied the right of a speedy and public trial by an impartial jury, and that the record of the proceedings and exhibits which will be brought into this action involved before the defendant Theodore R. Bohn, the unique One-Man

Grand Juror, the Honorable John W. Conlin, Probate Judge, the Honorable Thomas M. Kavanagh, Attorney General, and the Honorable G. Mennen Williams, Governor, indicate that the greatest amount of pressure has been exerted by all of the defendants, except the Honorable John W. Conlin, to force said complainants to a hearing on the removal proceeding before they have any opportunity whatsoever to have a trial under the criminal indictment hereinafter more particularly referred to, which rights are guaranteed to them by Article VI of the Amendments to the Constitution of the United States.

22. That complainants, as citizens of the United States and public officers of the City of Ecorse, are entitled to the privileges and immunities guaranteed to them by Article XIV of the Amendments to the Constitution of the United States hereinbefore quoted in Paragraph 8 above, all of which each and all of the defendants herein seek to deny that they are entitled to.

23. That subsequent to October 17, 1956, the complainants herein attended a preliminary examination in accordance with the laws of the State of Michigan before the Honorable Douglas Leo Paterson, Justice of the Peace in and for the City of Grosse Pointe, which examination was concluded on or about November 26, 1956, at which time said Justice of the Peace bound over and determined that there was probable cause to hold said complainants for trial on the warrant and indictment attached hereto, made a part hereof and designated as Appendix "A".

24. That on or about the 1st or 2nd day of November A.D. 1956, while complainants herein were involved in a preliminary examination, that the three complainants, William W. Voisine, Francis Labadie and Albert Buday were served with an alleged removal proceeding executed

by the defendant G. Mennen Williams, set for hearing before the Honorable John W. Conlin on November 13, 1956, which removal documents in respect to the three complainants herein named are substantially the same, except that a notice was issued to each of the complainants individually.

25. The three complainants charge that said removal charges and executive order of the Governor are one and the same document and that for all practical purposes the constitutional rights of three of the particular complainants pertaining to this action are one and the same.

26. Complainants charge in reference to Elmer Korn that he was indicted by the Grand Jury upon a different charge, and that his removal proceeding is upon a different ground, but that in respect to his constitutional rights they parallel and are substantially the same as they are for the other three complainants herein.

27. Complainants further show that on November 13, 1956, upon request of defense counsel, who appear as attorneys for the complainants herein, that the Honorable John W. Conlin adjourned the removal proceeding so-called on November 21, 1956, in order to give the various defendants in the removal proceeding and the complainants herein an opportunity to complete their preliminary examinations before the Honorable Douglas Leo Paterson, Justice of the Peace.

28. Complainants further show that on the 21st day of November, 1956, that each and all of the complainants herein, who are named as defendants in the various Grand Jury indictments and who are sought to be removed from office, appeared before the Honorable John W. Conlin in the City-County Building of the City of Detroit, at which time cer-

tain motions to dismiss, objections and legal arguments were made, all of which will appear in the removal proceedings pertaining to the four complainants herein.

29. Complainants further charge that they made strenuous objection to proceeding to a hearing on the removal charges prior to being heard upon the criminal case, because of the fact that the removal statute of the State of Michigan, which is Michigan Statutes Annotated 6.1327, Compiled Laws of 1948, 168.327, amounts to a bill of attainder in that it provides a full and complete penalty for the acts complained of in the removal proceedings, and likewise violates Article V of the Amendments to the Constitution of the United States in that it puts said complainants twice in jeopardy, said statute being as follows:

"The governor shall remove all city officers chosen by the electors of any city or any ward or voting district thereof, when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer, and an opportunity given him of being heard in his defense; Provided, That the

service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal."

30. That the aforesaid power of the Governor is quasi judicial and does not provide for any remedy in any manner whatsoever in the event said officer is wrongfully removed, because said Act provides that the person removed from office shall be prohibited for a period of three years from rerunning for office; and likewise, the Supreme Court of the State of Michigan has held that there is no discretion to review the Act by the Governor in said connection.

31. That there was filed in said removal proceedings in behalf of the complainant William W. Voisine a reply and motion which raised almost each and all constitutional objections to the removal proceedings, and more particularly the situation that the statute provides that the Attorney General of the State of Michigan shall furnish to the complainant subpoenas, and said complainants charge that to this date the defendant Thomas M. Kavanagh has ignored and neglected any and all requests in behalf of your complainants for subpoena forms.

32. Your complainants further charge that lengthy affidavits and motions were filed in behalf of all complainants indicating and setting forth that they would not be able to obtain witnesses in their own behalf and defense while said Grand Jury was in session, and while certain other defendants who might be necessary witnesses for the complainants in the defense of the removal proceeding were under indictment.

33. Your complainants further charge that the matters set forth in the removal proceeding arise out of an unconstitutional statute, that they are vague, general and indefinite and do not apprise the complainants of the specific nature of the charges to be presented against them and that in this connection all complainants made motions for a more specific bill of particulars which was denied by the defendant, the Honorable John W. Conlin, on January 9, 1957.

34. Complainants charge that they filed with the Honorable John W. Conlin in the removal proceeding verified documents to the effect that at the removal proceeding they would not be able to obtain witnesses to testify for and in their behalf because of the fact that said witnesses were under indictment in other proceedings and, therefore, could not be compelled to take the witness stand or subject themselves to cross-examination, as a result of which due process of law would not be complied with, but that the Honorable John W. Conlin ruled that he had no authority except to continue the hearing unless the proceeding were stopped by a court other than his own.

35. Complainants charge that the decision of the Honorable John W. Conlin made on January 9, 1957, ruled that the proceedings before the Governor are quasi-judicial and not ministerial, as a result of which the complainants herein

are not seeking to restrain the executive acts or ministerial acts of the administrative officer of the State of Michigan.

36. That the Grand Jury Act hereinbefore referred to actually confers upon the Governor of the State of Michigan, namely, the defendant herein, G. Mennen Williams and his representatives, John W. Conlin and Thomas M. Kavanagh, and the One-Man Grand Juror, judicial powers to deny a person charged with crime a trial by jury in violation of Article VI of the United States Constitution hereinbefore quoted.

37. That the removal proceeding hereinbefore referred to against each and all of these complainants denies to each and all of the complainants those rights which the Supreme Court of the United States has determined, that a citizen of the United States is entitled to, by virtue of its decision in the matter of *Slochower vs. Board of Education of New York, 350 US 551 100 Law Ed. 449, decided April 9, 1956,* in that it would compel each and all of these complainants and each and all of the witnesses in their behalf to take the witness stand and be subjected to cross-examination and possible self-incrimination prior to the time that they proceed to a trial on the indictment issued against them, which indictment is attached hereto, made a part hereof and designated as Appendix "B".

38. That the defendants herein, each and all of them, have sought to proceed with the greatest amount of haste in the removal proceeding while delaying the criminal proceeding, because of the fact that records of the Circuit Court for the County of Wayne will indicate that they did not file the information in the criminal proceeding until December 21, 1956, and that the same is not noticed for hearing until January 15, 1957, on an arraignment on the information on which day the defendants therein and the

complainants herein will have the right to stand mute while motions to quash are taken with appropriate action under the criminal laws of the State of Michigan.

39. Complainants charge that William W. Voisine has filed and noticed for hearing on January 15, 1957, a motion to quash said criminal proceeding; that the complainant, Francis Labadie, has filed and noticed for hearing a motion to quash said information on January 11, 1957; and that complainant, Elmer Korn, has demanded that an information against him be filed but that to the date of the execution of this bill of complaint none has so been filed.

40. Your complainants further charge that at the hearing before the Honorable John W. Conlin, Washtenaw County Probate Judge, on Wednesday, January 7, 1957, that they exhausted all legal remedies available to them and that they have not sought or taken advantage of any dilatory tactics in the removal proceeding herein sought to be restrained or in the criminal proceeding on file in the Circuit Court for the County of Wayne.

41. Complainants further charge that each and all of the defendants herein are guilty of attempting to deny to your complainants their constitutional rights as set forth in the sections of the Constitution hereinbefore quoted and which are asserted clearly in the decisions of the Supreme Court of the United States in the case of *Powell vs. Alabama, 287 U. S. 45-77, 77 Law Ed. 158,* and which are in part defined in the case of *In Re Oliver,* in the words of Mr. Justice Black, *333 U. S. 257-286, 99 Law Ed. 682,* pertaining to the Michigan unique One-Man Grand Jury Law, and the case of *In Re Murchison and White, 349 U. S. 133, 99 Law Ed. 942-75 Supreme Court 623,* in the words of Mr. Justice Black, in that said defendants have attempted and are at-

tempting with the greatest zeal and ardor to remove the four complainants herein from their public offices under the statute hereinbefore set out before they have had any opportunity whatsoever to proceed with or meet the trial of the criminal charges against them.

42. Complainants further charge that there was a motion made to quash certain subpoenas before the defendant Theodore R. Bohn, the unique One-Man Grand Juror, which came on to be heard on November 8, 1956, at which time a transcript of testimony and argument was made which motions are on file and on record and which to this date have not been decided.

43. Each and all of the complainan's allege and charge that in the event they are compelled to proceed to a hearing per the announced decision of the Honorable John W. Conlin on January 9, 1957, pertaining to the removal and/or ouster proceedings under the statute hereinbefore quoted, that their constitutional rights hereinbefore alleged will be violated and that in effect such great irreparable damage and injury can be done to them that it would not be possible for them to repair the same within the period of a lifetime.

44. Your complainants further charge that their reputations as were built up throughout an entire period of life are in jeopardy, and that the defendants herein seek to, by removal proceedings, take away from said complainants their political, private and property rights in the form of their reputations prior to the time that they are able to proceed to a trial in the criminal proceeding, and that unless this court takes jurisdiction of this case under the statutes hereinbefore cited and prevents the defendants herein from further invading the constitutional rights of your complainants, that they can be as completely ruined and destroyed as it is possible for a person to be without hav-

ing had the benefit of due process of law, and the protection of other constitutional rights guaranteed to them by the Constitution of the United States, as set forth in the constitutional provisions hereinbefore cited.

45. Your complainants further charge that they are without remedy whatsoever except in a Federal court of equity, and that each and all of the claims made herein involve, in addition to their constitutional rights, a large sum of money.

46. Complainants further show that on January 9, 1957, they were allowed and permitted only until January 14, 1957, the right to present to a Federal Court their petition for a stay of the removal proceedings and that as a result thereof they have not been able to formulate and present to this court in the best form they would desire a complaint which would chronologically and fairly put their story and the issue to this court.

47. That an examination of Appendices "A", "B" and "C" attached hereto and made a part hereof, together with the transcript of the proceedings taken before the defendant, the Honorable John W. Conlin, together with the statement by the representative of the defendant, Thomas M. Kavanagh, will indicate that the criminal case and the removal proceeding are based upon one and the same set and issue of facts, all in violation of the constitutional rights of each and all of the complainants herein.

48. Complainants further show that while they joined as complainants that their cases are substantially one and the same, and that there exists in reference to any individual among them only certain differences in the facts which may be developed before the trial court, and that they will not affect the main issue involved herein.

49. Complainants further charge that because of the time limitation allowed to them in the order of the defendant, John W. Conlin, as announced on January 9, 1957, that they have not had an opportunity to assemble and bring together as exhibits in this bill of complaint all of the documents and instruments necessary for a full understanding by this court of the issues and problems involved, and said complainants allege that the Federal Rules of Practice and Procedure will enable them in due course to bring all of the documents, proceedings and transcript now in existence before the various defendants into evidence in this cause.

WHEREFORE YOUR COMPLAINANTS PRAY:

(1) That the complainants herein be granted all process provided by the Constitution and Statutes of the United States and the Federal Rules of Civil Procedure.

(2) That the defendants herein make full and complete answer to each and all of the allegations herein set forth paragraph by paragraph.

(3) That the complainants be granted the full and complete use of all remedies provided for in the Federal Rules of Civil Procedure pertaining to interrogatories, depositions and records of admission.

(4) That by virtue of the Federal Rules of Civil Procedure, to-wit: Rule 65, that the complainants herein be granted upon the filing of this bill of complaint an order restraining the four defendants named herein from proceeding further with the removal proceeding before the Honorable John W. Conlin, Probate Judge for the County of Washtenaw, until the other matters of relief herein prayed for may be determined by this court, because of the great irreparable injury, loss and damage that will result to the

complainants between the date of the filing of this verified bill of complaint and of the return date of the order to show cause, for a temporary injunction and the motion for the appointment of a three-judge court.

(5) That said temporary restraining order herewith issued is merely for the purpose of preserving the status quo of the subject matter until and when the normal judicial processes of this court can be properly invoked to determine whether or not said complainants have material rights to protect.

(6) That because of the allegations contained in the foregoing bill of complaint, that a three-judge court be organized in accordance with Rule 65 of the Federal Rules of Civil Procedure, 28 U. S. Code Annotated 2284, for the purpose of determining that said complainants are entitled to an interlocutory injunction, as aforesaid, by a temporary restraining order to prevent immediate, great and irreparable injury, loss and damage to the complainants which will result by virtue of the violation of their constitutional rights for which they have no statutory remedies.

(7) That upon the final hearing of this cause a permanent injunction be granted to said complainants and against said defendants determining the following:

a. That the entire removal proceeding instituted by the findings of the unique One-Man Grand Juror arises out of an unconstitutional proceeding and amounts to a bill of attainder, and is therefore void and of no force and effect.

b. That Sections 767.3 and 767.4 of the Compiled Laws of 1948 of the State of Michigan, being Michigan Statutes Annotated 28.943 and 28.944, are unconstitutional and void

by reasons of matters hereinbefore set forth in this bill of complaint, in that they violate many of the aforesaid Federal constitutional provisions.

c. That Section 168.327 of the Compiled Laws of 1948, being Michigan Statutes Annotated 6.1327, as the same combines in operation with the unique One-Man Grand Jury Act, hereinbefore set out, amounts to a bill of attainder, banned and prohibited by virtue of the Federal constitutional provisions and is therefore unconstitutional and void.

d. That the removal proceedings referred to in this bill of complaint, and attached hereto as Appendix "B", be held to be unconstitutional and void and be permanently restrained and suppressed by the equity jurisdiction of this court, in that the same has arisen out of a totally void and unconstitutional proceeding.

e. That the Warrant attached hereto as Appendix "A" and the Information attached hereto as Appendix "C" be determined to have arisen out of a completely void and unconstitutional proceeding by virtue of matters set forth herein in direct violation of the Federal constitutional provisions cited herein, and the decisions of the United States Supreme Court herein referred to.

f. That your complainants have such other and further relief in the premises as shall be available under the pertinent provisions of the Constitution of the United States, the United States Code and the Federal Rules of Civil Procedure.

And your complainants will ever pray.

January 11, 1957

FRANCIS K. YOUNG,
Attorney for
William W. Voisine,
Mayor of Ecorse
1657 Penobscot Building
Detroit 26, Michigan

JEROME P. CAVANAGH,
Attorney for
Francis Labadie
600 Griswold Street
Detroit 26, Michigan

MICHAEL GUEST,
Attorney for
Albert Buday
1832 Buhl Building
Detroit 26, Michigan

[Duly verified]

JOSEPH FREED,
Attorney for
Elmer Korn
2933 Cadillac Tower
Detroit 26, Michigan

WILLIAM W. VOISINE,
Mayor of Ecorse

FRANCIS LABADIE,
Councilman for
the City of Ecorse

ALBERT BUDAY,
Councilman for
the City of Ecorse

ELMER KORN,
Councilman for
the City of Ecorse

Appendix "A," attached to Complaint filed in United States District Court in Cause of William W. Voisine et al., v. John W. Conlin, G. Mennen Williams, Governor, et al.:

Being copy of Warrant for arrest of William W. Voisine, et al., issued by Theodore R. Bohn, Judge of Circuit Court for the county of Wayne, Michigan.

(Dated, Oct. 17, 1956)

WARRANT

STATE OF MICHIGAN

IN THE CIRCUIT COURT
FOR THE COUNTY OF WAYNE

STATE OF MICHIGAN)
COUNTY OF WAYNE) ss. Misc. No. 83258.

TO: Commissioner of the Michigan State Police, the Sheriff of Wayne County, any Captain, Lieutenant, Sergeant, Detective or Trooper of the Michigan State Police, any Deputy Sheriff of Wayne County, the Commissioner of the Detroit Police Department, any Inspector, Lieutenant, Sergeant, Detective, or Patrolman of the Detroit Police Department, and to all Police officers in the State of Michigan. GREETINGS:

WHEREAS, upon an inquiry conducted under and in pursuance of Sections 767.3 and 767.4, and all sections of the Compiled Laws of Michigan for the year 1948, as amended, relative to the inquiries provided for under said sections of the Compiled Laws of 1948, before me, THEODORE R. BOHN, one of the Judges of the Circuit Court for the County of Wayne, in the matter entitled:

In the matter of the application of Thomas M. Kavanagh, Attorney General of the State of Michigan, and Gerald K. O'Brien, Prosecuting Attorney for the County of Wayne, for a judicial investigation concerning criminal offenses and unlawful practices in the Township of Taylor, the City of Ecorse, and other governmental units in the County of Wayne

there appears to me to be probable cause to believe that heretofore, to-wit: Between the 10th day of November, A.D. 1953, and on divers other days between that time and the 28th day of September, A.D. 1956, in the city of Ecorse, County of Wayne, and State of Michigan, WILLIAM W. VOISINE, ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WALTER CHASE, JOHN BADER, PATRICK SLITTI, N[redacted]STROIA, GREELIE DUKES, HARRY MONKS, IRVIN STEFFES, ALVIN GILLMAN, ROSCOE BOBO, ROOSEVELT LACKEY, JOSEPH KOVALCHIK; PAUL SACKENHEIM, WESLEY CHILDRESS, ANDREW COOK, and J. C. WALLS, and ROBERT NEAL, AMOS BOTT and JOHN DOE No. 3, JOHN DOE No. 4, JOHN DOE No. 5, JOHN DOE No. 6, and JOHN DOE No. 7, and MARY ROE No. 1, MARY ROE No. 2, MARY ROE No. 3, MARY ROE No. 4 and MARY ROE No. 5, and divers other persons to the Grand Jury unknown, late of the city of Ecorse, County and State aforesaid, did wickedly, maliciously and feloniously conspire, combine, confederate and agree together with William Montry and Russell T. Trilck, and with each other, and with divers other persons, to obstruct justice in that he, the said WILLIAM VOISINE, being then and there a public and executive officer of the said city of Ecorse, county and state aforesaid, to-wit: the Mayor of said city of Ecorse, county and state aforesaid, having theretofore been duly elected to the said office of Mayor, and having qualified therein and acted in his capacity as may[illegible] of said city during the period of time from November 10, 1953 until September 28, 1956; and he, the said ALBERT BUDAY, being then and there a public and legislative officer of the city of Ecorse, county and state aforesaid, to-wit: a member of the City Council for all or a portion of the time set out in the dates aforesaid; and he, the said FRANCIS LABADIE, being then and there a public and

legislative officer of the city of Ecorse, county and state aforesaid, to-wit; a member of the City Council for all or a portion of the time set out in the dates aforesaid; and he, the said WILLIAM JONES, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: the City Controller, for all or a portion of the time set out in the dates aforesaid; and he, the said WALTER CHASE, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: the city Purchasing Agent, for all or a portion of the time set out in the dates aforesaid; and he, the said JOHN BADER, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: Personnel Director, for all or a portion of the time set out in the dates aforesaid; and he, the said PATRICK SLITTI, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said NICK STROIA, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said GREELIE DUKES, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said HARRY MONKS, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said IRVIN STEFFES, being then and there a public and executive officer of the city of Ecorse, county and state

aforesaid, to-wit: a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said ALVIN GILLMAN, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: Chief of Police of the Ecorse Police Department, for all or a portion of the time set out in the dates aforesaid; and he, the said ROSCOE BOBO, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: Inspector of the city of Ecorse police department for all or a portion of the time set out in the dates aforesaid; and he, the said ROOSEVELT LACKEY, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: Deputy Chief of Detectives of the city of Ecorse police department for all or a portion of the time set out in the dates aforesaid; all of whom were then duly elected, appointed and qualified, and acting in their respective official capacities during such period or part of such period of time; and they, the SAID JOSEPH KOVALCHIK and PAUL SACKENHEIM, and divers other persons, being then and there in said city of Ecorse, county and state aforesaid, were engaged in keeping or maintaining a gaming room or gaming table or a game of skill or chance, or partly of skill and partly of chance, used for gaming, for hire, gain or reward, to-wit: Handbooks wherein bets could be made upon horse races, during all or a portion of the time set out in the dates aforesaid, in violation of the laws of the State of Michigan, to-wit: Section 750.303, Compiled Laws 1948; and who were keeping, maintaining, operating or occupying a building or room or part thereof, or place, with apparatus, books or devices for registering bets, or buying or selling pools upon the result of a trial or contest of skill, speed or endurance, or upon the result of a game, or contest, to-wit: horse races, in violation of the laws of the State of Michi-

gan, to-wit: Section 750.304, Compiled Laws 1948; and they, the said WESLEY CHILDRESS, ANDREW COOK and J. C. WALLS, and divers other persons to the grand jury unknown, being then and there in the city of Ecorse, county and state aforesaid, engaged in or assisted and enabled the setting up or promotion or management, within the State of Michigan and the said county and city, of a certain lottery or gift enterprise for money, to-wit: the mutuel numbers business, during all or a portion of the time set out in the dates aforesaid, in violation of the laws of the State of Michigan, to-wit: Section 750.301, Section 750.302, Section 750.303, Section 750.304, Section 750.305 and Section 750.306, Compiled Laws of 1948; and divers other persons, to the grand jury unknown, who engaged in or assisted and enabled in the setting up or promotion or management, in the city of Ecorse, county and state aforesaid, of a gaming room or gaming table, or a game of skill or chance, or partly of skill and partly of chance, used for gaming for hire, gain or reward, to-wit: barbut and other dice games, and poker, and other card games, in violation of the laws of the State of Michigan, to-wit: Section 750.303, Compiled Laws of 1948; and they, the said WILLIAM VOISINE, ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WALTER CHASE, JOHN BADER, PATRICK SLITTI, NICK STROIA, GREELIE DUKES, HARRY MONKS, IRVIN STEFFES, ALVIN GILLMAN, ROSCOE BOBO and BOOSEVELT LACKEY, public officials of the said city of Ecorse, county and state aforesaid, then and there well knowing that said keeping, maintaining, operating, or assisting in keeping, maintaining, and operating handbooks, mutuel numbers, barbut and other dice games, poker and other card games, and other gambling games, was a violation of the laws of the State of Michigan and the ordinances of the said city of Ecorse; and they, the said public officials and policemen, well

knowing that it was their respective duty to use all lawful means within their respective power to stop and prevent the operation of such keeping or maintaining of a gaming room, gaming table, games of skill or chance, or partly of skill and partly of chance, used for gaming, and to prevent the operation or the keeping of gambling devices for hire, gain or reward, and the promotion, maintaining, management or operation of a lottery or gift enterprise for money in said city of Ecorse, in said County of Wayne, which are contrary to the laws of the State of Michigan, and the ordinances of the city of Ecorse; and also knowing that it was the official duty of the various public officials and policemen herein named, to prevent the operation and maintenance of said unlawful and illegal enterprises in said city of Ecorse, Wayne County, Michigan, they, the said public officials and police officers, knowingly permitted, suffered, assisted, enabled, or allowed said gambling games, devices, lotteries as aforesaid to flourish, operate, and be maintained by the aforesaid individuals and divers other persons to the Grand Juror unknown in return for bribes, gifts and gratuities and payments of money and did conspire to do other acts generally calculated to interfere with the orderly process of the administration of law in the said city of Ecorse, county and state aforesaid, contrary to the laws of the State of Michigan and against the peace and dignity of the people of the State of Michigan (750.505, C.L. 1948).

NOW, THEREFORE, in the name of the People of the State of Michigan, you and each of you are commanded to forthwith arrest the said WILLIAM W. VOISINE ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WALTER CHASE, JOHN BADER, PATRICK SLITTI, NICK STROIA, GREELIE DUKES, HARRY

MONKS, IRVIN STEFFES, ALVIN GILLMAN, ROSCOE BOBO, ROOSEVELT LACKEY, JOSEPH KOVALCHIK, PAUL SACKENHEIM, WESLEY CHILDRESS, ANDREW COOK and J. C. WALLS, and ROBERT NEAL, AMOS BOTT and JOHN DOE No. 3, JOHN DOE No. 4, JOHN DOE No. 5, JOHN DOE No. 6 and JOHN DOE No. 7 and MARY ROE No. 1, MARY ROE No. 2, MARY ROE No. 3, MARY ROE No. 4, and MARY ROE No. 5, and bring them before me, to be dealt with according to law.

Given under my hand and seal of said court, in the city of Detroit, County of Wayne, State of Michigan, on the 17th day of October, A. D. 1956.

(Sgd) Theodore R. Bohn

Judge, Circuit Court for the County of Wayne

(SEAL)

A TRUE COPY

EDGAR M. BRANIGIN, Clerk
DAN DeVOGLAW, Deputy Clerk

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.

BY VIRTUE OF THE WITHIN WARRANT to me directed, I hereby certify and return that I have taken the within named WILLIAM W. VOISINE, ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WAL-

TER CHASE, JOHN BADER, PATRICK SLITTI, NICK STBOLA, GREELIE DUKES, HARRY MONKS, IRVIN STEFFES, ALVIN GILLMAN, BOSCOE BOBO, BOOSEVELT LACKEY, JOSEPH KOVALCHIK, PAUL SACKENHEIM, WESLEY CHILDRESS, ANDREW COOK, J. C. WALLS, ROBERT NEAL and AMOS BOTT whom I have, before the Honorable Theodore R. Behn, Judge of the Circuit Court for the County of Wayne, as I am within commanded

Appendix "B," attached to Complaint filed in United States District Court in Cause of William W. Voisine et al., v. John W. Conlin, G. Mennen Williams, Governor, et al.:

a. Notice of Hearing on charges of malfeasance in office against William W. Voisine, Mayor of the City of Ecorse, Wayne county, Michigan.

b. Copy of such charges of malfeasance, attached thereto.

c. Copy of Order of Governor of the State of Michigan, appointing Judge of Probate to hear such charges [attached to Notice of Hearing].

NOTICE

To William W. Voisine

WHEREAS there has been presented to the Honorable G. Mennen Williams, Governor of the State of Michigan, written findings by the Honorable Theodore R. Bohn, one of the Circuit Judges of the Third Judicial Circuit, acting as a One Man Grand Juror as by law provided, charging William W. Voisine, Mayor of the City of Ecorse, County of Wayne, State of Michigan, a city officer, with official misconduct in office consisting of certain acts of misfeasance, malfeasance and non-feasance constituting grounds for removal from office, all as set forth in a true copy of such written findings attached hereto; and, whereas, the Governor of the State of Michigan has by Executive Order, copy of which is attached, directed Thomas M. Kavanagh, Attorney General of the State of Michigan, to conduct and inquire into the charges made; and, whereas, the Governor of the State of Michigan has heretofore appointed the Honorable John W. Conlin, Judge of Probate of Washtenaw County, as the judge for such purpose and to hear said charges, to conduct hearings and to certify a correct transcript of all testimony taken before him at said hearings for transmittal by the Attorney General to the Governor;

NOW THEREFORE you the said William W. Voisine are hereby notified that in accordance with Section 201.7 Compiled Laws of 1948 said hearing and inquiry into the charges aforesaid will be held and commenced before the Honorable John W. Conlin in Room 1807 at the City-County Building in the City of Detroit, Michigan on the

13th day of November, A.D. 1956 at 10:00 a.m. at which time and place the Attorney General or his duly designated representative will present evidence and will examine witnesses in relation to such charges. You are further notified that at said time and place you may be present in person and by counsel for the purpose of cross-examining witnesses, presenting evidence and such defenses as you may have to the charges.

THOMAS M. KAVANAGH
Attorney General

By Horace W. Gilmore
Deputy Attorney General

FINDINGS OF ONE MAN GRAND JURY RE: WILLIAM W. VOISINE, MAYOR OF ECORSE, WAYNE COUNTY, MICHIGAN, and FRANCIS LABADIE and ALBERT BUDAY, COUNCILMEN, CITY OF ECORSE, WAYNE COUNTY, MICHIGAN.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss. Misc. No. 83258

TO: The Honorable G. Mennen Williams, Governor of the State of Michigan:

Honorable Sir:

WHEREAS, upon an inquiry conducted under and in pursuance of Sections 767.3 and 767.4, and all sections of

the Compiled Laws of Michigan for the year 1948, as amended, relative to the inquiries provided for under said sections of the Compiled Laws of 1948, before me, THEODORE R. BOHN, one of the Judges of the Circuit Court for the County of Wayne, in the matter entitled:

In the Matter of the application of Thomas M. Kavanagh, Attorney General of the State of Michigan, and Gerald K. O'Brien, Prosecuting Attorney for the County of Wayne, for a judicial investigation concerning criminal offenses and unlawful practices in the Township of Taylor, the City of Ecorse, and other governmental units in the County of Wayne

I find from the sworn testimony given before me that there appears to be probable cause to believe that heretofore, to-wit: Between the 10th day of November, A.D. 1953 and on divers other days between that time and the 28th day of September, A.D. 1956, in the city of Ecorse, County of Wayne, State of Michigan, one WILLIAM W. VOISINE, who at the present time is, and during the events hereinafter related was at all times the duly elected and qualified mayor of the city of Ecorse, County of Wayne, State of Michigan; and FRANCIS LABADIE, and ALBERT BUDAY, who at the present time are, and during the events hereinafter related, were at all times duly elected and qualified members of the city council of the city of Ecorse, County of Wayne, State of Michigan, have been guilty of misfeasance, malfeasance and non-feasance in office; and probable cause to believe that the aforesaid WILLIAM W. VOISINE, FRANCIS LABADIE and ALBERT BUDAY have been guilty of several offenses constituting grounds for their removal from their respective offices of mayor and members of the city council of the city of Ecorse, County of Wayne, State of Michigan,

in the manner and form hereinafter set forth; and these findings of fact, based upon the sworn testimony presented, are contained within the following charges:

1. I find from the sworn testimony given before me in said inquiry that WILLIAM W. VOISINE acted as mayor of the city of Ecorse, County of Wayne, State of Michigan, from November 10, 1953 and continues to so act at the present time.

2. I further find that FRANCIS LABADIE and ALBERT BUDAY were duly elected legislative officers, to-wit: councilmen for the city of Ecorse, County of Wayne, State of Michigan, having qualified therefor as city councilmen by virtue of said election to said office on November 10, 1953, and that they continue to hold said office at the present time.

3. I further find from the sworn testimony given before me upon said inquiry, that upon assuming said office, the said WILLIAM VOISINE appointed one WILLIAM MONTRY as a member of the Police and Fire Commission for the city of Ecorse, County of Wayne, State of Michigan, in November of 1953, and that said WILLIAM MONTRY was approved by the Common Council for this office, and that the said WILLIAM MONTRY served in that capacity at the pleasure of the mayor and the common council from November of 1953 until he resigned on July 26, 1956, and, as such member of the Commission, was a public officer and an employee of the city of Ecorse, Wayne County, State of Michigan.

4. That the duties of WILLIAM W. VOISINE, as mayor, are set forth in the laws and statutes of the State of Michigan, and in the city of Ecorse charter, as conferred

by the Compiled Laws of Michigan, 1948, Section 87.1, and in the laws and statutes of the State of Michigan, and that, among such duties, it was incumbent upon him, and upon his duly appointed agents and employees, to faithfully use all the lawful means within their respective powers, to prevent the operation of games of skill or chance, handbooks, mutuel numbers, barbut and other dice games, poker and other card games, and other gambling games, and to see that all laws of the State of Michigan and the city government, including the state statutes and ordinances of the city of Ecorse, were enforced. Further, it was incumbent upon him, as mayor, and upon his assistants, employees and agents, to use diligent efforts to prevent violation of the criminal laws of the State of Michigan and the ordinances of the city of Ecorse, County of Wayne, State of Michigan.

5. That the duties of FRANCIS LABADIE and ALBERT BUDAY are set forth in the laws and statutes of the State of Michigan and the city of Ecorse charter, as conferred by Act 279, P.A. 1909, and the Compiled Laws of 1948, Section 117.2, which were adopted by the city of Ecorse on January 27, 1942, with amendments up to and including April 6, 1953, giving the said FRANCIS LABADIE and ALBERT BUDAY full power and authority to exercise powers to protect and advance the interests of the city of Ecorse, the safety, order, good government and general welfare of its inhabitants, together with such implied and incidental powers to prevent the operation of games of skill or chance, handbooks, mutuel numbers, barbut and other dice games, poker and other card games, and other gambling games, and to see that the laws of the State of Michigan and ordinances of the city of Ecorse were enforced.

6. I further find from the sworn testimony and evidence given before me that between the aforementioned dates, certain games of skill or chance, or games partly of skill and partly of chance, to-wit: handbook operations where bets were accepted on horse races, were operated at the following locations by the following named persons:

Name	Address
1. Joe Kovalchik (alias Bookie Joe)	4075 W. Jefferson, Ecorse, Michigan
2. Paul Seckenheim	280 W. Woodward, Ecorse, Michigan

7. I further find from the sworn testimony and evidence given before me that between the aforementioned dates certain lotteries, games of skill or chance, and partly of skill and partly of chance, to-wit: mutuel numbers operations, were carried on by the following named persons at the following addresses:

1. Russell Trilck	553 Visger Road, Ecorse, Michigan, and numerous other addresses in Ecorse.
2. Wesley Childress	242 Visger Road, Ecorse, Michigan, and numerous other persons at various addresses in the city of Ecorse.

8. I further find from the sworn testimony and evidence given before me that between the aforementioned dates certain games of skill or chance, or games partly of skill and partly of chance, gaming tables, gaming rooms, to-wit: barbut games, were operated by the following persons at the following addresses:

1. Russell Trilck — 3708 W. Jefferson Avenue, Ecorse, Michigan

2. Operator unknown — 4480 W. Jefferson Avenue, Ecorse, Michigan,

and numerous other persons at various addresses in the city of Ecorse.

9. I further find from the sworn testimony and evidence given before me that between the aforementioned dates certain games of skill or chance, or games partly of skill and partly of chance, to-wit; poker games and other card games, were operated by numerous persons at numerous addresses unknown to the grand jury.

10. I further find from the sworn testimony given before me in said inquiry that, with utter disregard of and in violation of their aforesaid respective duties, the mayor and councilmen, the said WILLIAM W. VOISINE, FRANCIS LABADIE and ALBERT BUDAY, did conspire, confederate and agree with said RUSSELL TRILCK, his servants, agents and employees, Joe Kovalchik, (alias Bookie Joe), Paul Sackenheim and Wesley Childress, and with law enforcement officers and agents of the said city of Ecorse, county and state aforesaid, to-wit: ROOSEVELT LACKEY, ROSCOE BOBO and ALVIN GILLMAN, and other law enforcement officers, to wilfully neglect to enforce the aforementioned criminal laws of the State of Michigan and ordinances of the city of Ecorse, and permit the aforementioned criminal laws to be openly violated, and did aid and abet certain law violators in said city and county in the State of Michigan, and did assist and enable those engaged in violation of such laws to accomplish their criminal purpose or purposes, by refraining from apprehending or trying to apprehend said violators, and by wilfully and intentionally permitting the above mentioned illegal enterprises and criminal acts to continue and flour-

ish, with full knowledge of the facts that such violations of criminal laws were existing in said city and country.

11. I further find from the sworn testimony and evidence given before me on said inquiry that there is probable cause to believe that the said WILLIAM W. VOISINE, as mayor, during the aforesaid time, received money, gifts and gratuities, paid by the owners, operators, agents or employees of the said unlawful and illegal enterprises, amounting to thirty thousand dollars ($30,000.00) and upwards, paid to him by the aforesaid RUSSELL TRILCK, his servants, agents and employees, in furtherance of an understanding and agreement between the said WILLIAM W. VOISINE, as mayor, and RUSSELL TRILCK, his servants and employees, and other individuals who were engaged in violating the criminal laws of the State of Michigan, and ordinances of the city of Ecorse, whereby the said mayor, WILLIAM W. VOISINE, did knowingly permit the commission of the aforesaid illegal, unlawful and criminal acts, in the city, county and state aforesaid, which were of a very flagrant nature.

12. I further find from the sworn testimony and the evidence given before me on said inquiry that there is probable cause to believe that the said FRANCIS LABADIE and ALBERT BUDAY, as councilmen, during the time aforesaid, received money, gifts and gratuities paid by the owners, operators, agents, or employees, amounting to sixty-two hundred dollars ($6200.00) each, and upwards, in furtherance of an agreement and understanding between the said FRANCIS LABADIE and ALBERT BUDAY, as councilmen, and RUSSELL TRILCK, his servants, agents and employees, Paul Sackenheim and Joe Kovalchik, alias Bookie Joe, and certain individuals who were engaged in violating the criminal laws of the State of Michigan, whereby the said councilmen, FRANCIS LABADIE and AL-

BERT BUDAY, did permit the commission of illegal, unlawful and criminal acts, in said city and county aforesaid, which were of a very flagrant nature.

13. I further find from the sworn testimony and evidence given before me upon said inquiry that during the aforesaid time, the above mentioned WILLIAM W. VOISINE, FRANCIS LABADIE, and ALBERT BUDAY did employ, engage, and use one WILLIAM MONTRY as their medium, means, and contact man with RUSSELL TRILCK, his servants, agents and employees, and with PAUL SACKENHEIM, JOE KOVALCHIK, alias Bookie Joe, and other individuals engaged in the aforesaid illegal enterprises, and did conspire with RUSSELL TRILCK, PAUL SACKENHEIM, JOE KOVALCHIK, alias Bookie Joe, and other individuals, and with each other, to do acts generally designed and calculated to interfere with the orderly process of the administration of law in the city of Ecorse, county and state aforesaid, contrary to the laws of the State of Michigan, and against the peace and dignity of the people of the State of Michigan. (Sec. 750.505, CL 1948)

I, therefore, recommend, pursuant to the statute in such case made and provided, that you take all necessary legal steps to remove WILLIAM VOISINE, FRANCIS LABADIE and ALBERT BUDAY from their respective executive and legislative offices, as mayor and councilmen of the City of Ecorse, County of Wayne, State of Michigan.

Theodore R. Bohn
Circuit Judge, acting as one-man grand jury pursuant to the laws of the State of Michigan.

Dated at Detroit, Michigan
this 23rd day of October 1956.

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.

THEODORE R. BOHN, being duly sworn deposes and says that he has read the foregoing findings by him subscribed and that the same is true of his own knowledge, except as to those matters as alleged to be on information and belief, and as to those matters, he believes them to be true.

Theodore R. Bohn
Circuit Judge, Acting under Sections 767.3, 767.4, and all other sections of the Compiled Laws of the State of Michigan for the year 1948, as amended.

Subscribed and sworn to before me this 23rd day of October A.D. 1956 Dan DeVogelaw, Notary Public, Wayne County, Michigan.
My commission expires 1/10/58.

EXECUTIVE ORDER

1956 - 8

WHEREAS, there has been served upon me by the Honorable Theodore Bohn, one of the Judges of the Third Judicial Circuit, now conducting an inquiry under and in pursuance of Sections 767.3 and 767.4 of the Compiled Laws of Michigan of 1948, as amended, written findings, that there appears to him to be probable cause to believe that one Elmer Korn, as a Councilman of the City of Ecorse, County of Wayne, State of Michigan, has been guilty of malfeasance in the performance of his office as a Councilman of said City, and

WHEREAS, Section 767.4, Compiled Laws of Michigan of 1948, as amended, provides that said finding shall be sufficient complaint as a basis for removal proceeding against such official and requires that I shall proceed in the method prescribed by law for a hearing and determination of said charges,

IT IS HEREBY ORDERED and directed that the Honorable Thomas M. Kavanagh, Attorney General of the State of Michigan, do conduct an inquiry into the charges made in said finding as provided for in Section 201.7 of Compiled Laws of Michigan of 1948, as amended, and, as provided in said section, the said Attorney General shall give at least eight (8) days' notice to the said Elmer Korn of the time and place at which he will proceed to the examination of the witness in relation to such charges before the Judge of Probate herein appointed.

IT IS FURTHER ORDERED and directed that the said Attorney General, at the time of giving such notice, shall serve upon the said Elmer Korn a copy of this Executive Order and of the said charges as provided for by law so that the said Elmer Korn may be given an opportunity to be heard in his defense.

IT IS FURTHER ORDERED that the Honorable John W. Conlin, Probate Judge of Washtenaw County, Michigan, be and hereby is appointed to conduct the proceedings in connection with the examination of witnesses and the taking of testimony in relation to said charges and, as provided by law, the said Probate Judge shall proceed to take the testimony of witnesses produced before him by the Attorney General and by said Elmer Korn, whereupon such testimony shall be certified by the said Judge of Probate

to be a correct transcript of the testimony so taken and when so certified shall be delivered by the said Judge of Probate to the said Attorney General, who shall transmit the same with a summary of such testimony to me, all of which proceedings in said matter shall be as provided for by law.

Given under my hand and the Great Seal of the State of Michigan, this twenty-fifth day of October, in the Year of Our Lord, One Thousand Nine Hundred Fifty-Six, and of the Commonwealth the One Hundred Twentieth.

/s/ G. Mennen Williams
GOVERNOR

[Seal]

BY THE GOVERNOR:
/s/ Sidney H. Woolner
DEPUTY SECRETARY OF STATE

Appendix "C," attached to Complaint filed in United St
District Court in Cause of William W. Voisine et al
John W. Conlin, G. Mennen Williams, Governor, et

Information filed in the Circuit Court for the Count
Wayne in the cause of People of the State of Michi
v. William D. Voisine, et al.

(Filed, Dec. 21, 1956)

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN,

- vs -

WILLIAM W. VOISINE, ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WALTER CHASE, JOHN BADER, PATRICK SLITTI, NICK STROIA, GREELIE DUKES, HARRY MONKS, IRVIN STEFFES, ALVIN GILLMAN, ROSCOE BOBO, ROOSEVELT LACKEY, JOSEPH KOVALCHIK, PAUL SACKENHEIM, J. C. WALLS, ROBERT NEAL, RUDY HICKEY; JOHN DOE No. 3, JOHN DOE No. 4, JOHN DOE No. 5, JOHN DOE No. 6, JOHN DOE No. 7; MARY ROE No. 1, MARY ROE No. 2, MARY ROE No. 3, MARY ROE No. 4, and MARY ROE No. 5, Defendants.

No. 34,092

(Filed, Dec. 21, 1956)

Edgar M. Branigin, Clerk

INFORMATION.

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.

In the name of the People of the State of Michigan, THOMAS M. KAVANAGH, Attorney General of the State of Michigan, and GERALD K. O'BRIEN, Prosecuting Attorney in and for the said County of Wayne, who prosecute for and on behalf of the People of the said State in said Court, come now here in said Court in the December term thereof, A.D. 1956, and give the said Court to understand and be informed that heretofore, to-wit: Between the 10th day of November, A.D, 1953 and on divers other days between that time and the 28th day of September, A.D. 1956, WILLIAM W. VOISINE, ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WALTER CHASE, JOHN BADER, PATRICK SLITTI, NICK STROIA, GREELIE DUKES, HARRY MONKS, IRVIN STEFFES, ALVIN GILLMAN, ROSCOE BOBO, ROOSEVELT LACKEY, JOSEPH KOVALCHIK, PAUL SACKENHEIM, J. C. WALLS, ROBERT NEAL, RUDY HICKEY, JOHN DOE No. 3, JOHN DOE No. 4, JOHN DOE No. 5, JOHN DOE No. 6, JOHN DOE No. 7, MARY ROE No. 1, MARY ROE No. 2, MARY ROE No. 3, MARY ROE No. 4, and MARY ROE No. 5, and divers other persons, late of the City of Ecorse, County and State aforesaid, did wickedly, maliciously and feloniously conspire, combine, confederate and agree together with WILLIAM MONTRY, RUSSELL T. TRILCK, MARIE TRILCK and ANDREW COOK, and with each other, and with divers other persons, to obstruct justice, in that he, the said WILLIAM VOISINE, being then and there a public and executive officer of the said city of Ecorse, county and state aforesaid, to-wit: the Mayor of said city of Ecorse, county and state aforesaid, having theretofore been duly elected to the said office of

Mayor, and having qualified therein and acted in his capacity as mayor of said city during the period of time from November 10, 1953 until September 28, 1956; and he, the said ALBERT BUDAY, being then and there a public and legislative officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the City Council for all or a portion of the time set out in the dates aforesaid; and he, the said FRANCIS LABADIE, being then and there a public and legislative officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the City Council for all or a portion of the time set out in the dates aforesaid; and he, the said WILLIAM JONES, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, the City Controller, for all or a portion of the time set out in the dates aforesaid; and he, the said WALTER CHASE, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, the city Purchasing Agent, for all or a portion of the time set out in the dates aforesaid; and he, the said JOHN BADER, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, Personnel Director, for all or a portion of the time set out in the dates aforesaid; and he, the said PATRICK SLITTI, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said NICK STROIA, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said GREELIE DUKES, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the Police and Fire Commission during all or a portion of the time set out in the dates

aforesaid; and he, the said HARRY MONKS, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit: a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said IRVIN STEFFES, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the Police and Fire Commission during all or a portion of the time set out in the dates aforesaid; and he, the said ALVIN GILLMAN, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, Chief of Police of the Ecorse Police Department, for all or a portion of the time set out in the dates aforesaid; and he, the said ROSCOE BOBO, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, Inspector of the city of Ecorse police department for all or a portion of the time set out in the dates aforesaid; and he, the said ROOSEVELT LACKEY, being then and there a public and executive officer of the city of Ecorse, county and state aforesaid, to-wit, Deputy Chief of Detectives of the city of Ecorse police department for all or a portion of the time set out in the dates aforesaid; and he, the said ROBERT NEAL, being then and there a public and legislative officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the City Council for all or a portion of the time set out in the dates aforesaid; and he, the said RUDY HICKEY, being then and there a public and legislative officer of the city of Ecorse, county and state aforesaid, to-wit, a member of the City Council for all or a portion of the time set out in the dates aforesaid; all of whom were then duly elected, appointed and qualified, and acting in their respective official capacities during such period or part of such period of time; and they, the said JOSEPH KOVALCHIK and PAUL SACKENHEIM and divers other persons, being then and there in

said city of Ecorse, county and state aforesaid, were engaged in keeping or maintaining a gaming room or gaming table or a game of skill or chance, or partly of skill and partly of chance, used for gaming, for hire, gain or reward, to-wit, handbooks wherein bets could be made upon horse races, during all or a portion of the time set out in the dates aforesaid, in violation of the laws of the State of Michigan, to-wit, Section 750.303, Compiled Laws 1948; and who were keeping, maintaining, operating or occupying a building or room or part thereof, or place, with apparatus, books or devices for registering bets, or buying or selling pools upon the result of a trial or contest of skill, speed or endurance, or upon the result of a game, or contest, to-wit, horse races, in violation of the laws of the state of Michigan, to-wit, Section 750.304, Compiled Laws 1948; and he, the said J. C. WALLS, and divers other persons, being then and there in the city of Ecorse, county and state aforesaid, engaged in or assisted and enabled the setting up or promotion or management, within the state of Michigan and the said county and city, of a certain lottery or gift enterprise for money, to-wit, the mutuel numbers business, during all or a portion of the time set out in the dates aforesaid, in violation of the laws of the State of Michigan, to-wit, Section 750.301, Section 750.302, Section 750.303, Section 750.304, Section 750.305, and Section 750.306, Compiled Laws of 1948, and divers other persons who engaged in or assisted and enabled in the setting up or promotion or management, in the city of Ecorse, county and state aforesaid of a gaming room or gaming table, or a game of skill or chance, or partly of skill and partly of chance, used for gaming for hire, gain or reward, to-wit, barbut and other dice games, and poker and other card games, in violation of the laws of the State of Michigan, to-wit, Section 750.303, Compiled Laws of 1948; and they, the said WILLIAM VOISINE, ALBERT BUDAY, FRANCIS LABADIE, WILLIAM JONES, WALTER CHASE, JOHN BADER,

PATRICK SLITTI, NICK STROIA, GREELIE DUKES, HARRY MONKS, IRVIN STEFFES, ALVIN GILLMAN, ROSCOE BOBO, ROOSEVELT LACKEY, ROBERT NEAL and RUDY HICKEY, public officials of the said city of Ecorse, county and state aforesaid, then and there well knowing that said keeping, maintaining, operating, or assisting in keeping, maintaining, and operating handbooks, mutuel numbers, barbut and other dice games, poker and other card games, and other gambling games, was a violation of the laws of the State of Michigan and the ordinances of the said city of Ecorse; and they, the said public officials and policemen, well knowing that it was their respective duty to use all lawful means within their respective power to stop and prevent the operation of such keeping or maintaining of a gaming room, gaming able, games of skill or chance, or partly of skill and partly of chance, used for gaming, and to prevent the operation or the keeping of gambling devices for hire, gain or reward, and the promotion, maintaining, management or operation of a lottery or gift enterprise for money in said city of Ecorse, in said County of Wayne, which are contrary to the laws of the State of Michigan, and the ordinances of the city of Ecorse; and also knowing that it was the official duty of the various public officials and policemen herein named, to prevent the operation and maintenance of said unlawful and illegal enterprises in said city of Ecorse, Wayne County, Michigan, they, the said public officials and police officers, knowingly permitted, suffered, assisted, enabled, or allowed said gambling games, devices, lotteries as aforesaid to flourish, operate, and be maintained by the aforesaid individuals and other persons in return for bribes, gifts, and gratuities and payments of money, and did conspire to do other acts generally calculated to interfere with the orderly process of the administration of law in the said city of Ecorse, county and state aforesaid, contrary to the laws of the State of Michigan and against the

peace and dignity of the People of the State of Michigan (750.505 C. L. 1948).

Thomas M. Kavanagh
Attorney General of the State of Michigan

Gerald K. O'Brien
Prosecuting Attorney for the County of Wayne

By Ralph Garber

PEOPLE

v. No. 34,092

WILLIAM W. VOISINE
et al

LIST OF WITNESSES

William Montry	Dave Edwards
Russell Trilck	Ann Hammerschmidt
Marie Trilck	Roy Dunn
Andrew Cook	William J. Evans
Robert McWhirter	Emery Evans
Emma Brown	Leonard Evans
Mary Johnson	Joseph Eisele
Edward Bass	Conrad Swearingen
Carl Robinson	Louis Kozma
Ruby Lary	Francis Nolan
William Martin	Richard Oldfield
William Page	Ann Secor

APPENDIX "B"

Notice of Motion for Preliminary Injunction and for formation of Three-Judge Court, filed in United States District Court in Cause of William W. Voisine, et al., v. John W. Conlin, G. Mennen Williams, Governor, et al:

(Filed with Complaint, Jan. 14, 1957)

To the above named defendants and their attorneys:

YOU WILL PLEASE TAKE NOTICE that the complainants herein will move the Court at its Court Room in the Federal Building of the City of Detroit, County of Wayne, State of Michigan, to whom the same may be assigned on Monday, January 21, 1957, at 9:30 o'clock A.M., or as soon thereafter as counsel can be heard, for the formation of a three-judge court as provided for under the United States Code and the Federal Rules of Civil Procedure, and for a preliminary injunction and stay of proceedings against the complainants herein which are pending before the Honorable John W. Conlin, Probate Judge, until the matters set forth in the bill of complaint filed herein can and may be determined by the judge to whom this matter may be assigned, or by the three-judge court which may be invoked under and by virtue of the statutes and rules named in said bill of complaint.

Complainants further represent and give notice that pending a hearing on the determination of the organization of a three-judge court to hear the matters set forth in this bill of complaint, that irreparable damage and injury can be done to them which under no circumstances can be remedied or repaired, and for which they have no adequate remedy at law; and they therefore pray that the District Judge to whom this matter shall be assigned issue forthwith his temporary restraining order without notice to the

defendants, restraining them from in any manner continuing with the removal proceeding described in said bill of complaint before the Honorable John W. Conlin, Washtenaw County Probate Judge, but not the criminal proceeding on file in the Circuit Court for the County of Wayne, until such date as it may be determined whether or not the complainants are entitled to an interlocutory injunction as prayed for herein.

That this motion is based upon the verified bill of complaint filed simultaneously herewith and upon all other documents and records to be assembled before said court as evidence in connection therewith.

/s/ Francis K. Young
FRANCIS K. YOUNG
Attorney for William W. Voisine,
Mayor of Ecorse
1657 Penobscot Building
Detroit 26, Michigan

/s/ Jerome P. Cavanagh
JEROME P. CAVANAGH
Attorney for Francis Labadie
600 Griswold Street
Detroit 26, Michigan

/s/ Michael A. Guest
MICHAEL A. GUEST
Attorney for Albert Buday
1832 Buhl Building
Detroit 26, Michigan

/s/ Joseph Freed
JOSEPH FREED
Attorney for Elmer Korn
2933 Cadillac Tower
Detroit 26, Michigan

January 11, 1957.

AFFIDAVIT OF FRANCIS K. YOUNG

STATE OF MICHIGAN)
COUNTY OF WAYNE) SS

FRANCIS K. YOUNG, being first duly sworn, deposes and says that he is attorney for William W. Voisine, Mayor of Ecorse, one of the complainants in the above entitled proceeding.

Deponent further says that the motion for the preliminary injunction is based upon the bill of complaint filed in this cause and the transcript of testimony which is in the process of being secured from Robert Rowley, Court Reporter for the Honorable John W. Conlin, and of the other documents and proceedings before the Honorable John W. Conlin, and certain documents and records in the proceeding generally referred to as the One-Man Grand Jury proceeding in addition to the criminal proceeding entitled People of the State of Michigan vs. William W. Voisine et al, in the Circuit Court for the County of Wayne.

Further the deponent sayeth not.

/s/ Francis K. Young
FRANCIS K. YOUNG
Attorney for William W. Voisine
Mayor of Ecorse

Subscribed and sworn to before me this
11th day of January, A.D. 1957.
Frederick R. Walter
Notary Public
My commission expires: Jan. 2, 1959.

APPENDIX "C"

Temporary Restraining Order without Notice, issued by District Judge Theodore Levin upon filing Complaint in cause of William W. Voisine et al. v. John W. Conlin, G. Mennen Williams, et al.

(Filed and entered, Jan. 14, 1957)

At a session of said Court held at the Federal Building in the City of Detroit, County of Wayne and State of Michigan, this 14th day of January, A.D., 1957.

PRESENT: HON. THEODORE LEVIN, United States District Judge.

Whereas, in the above named cause it has been made to appear by the verified complaint filed herein, which was on this 14th day of January, 1957, presented to the Honorable THEODORE LEVIN, one of the Judges of the United States District Court for the Eastern District of Michigan, Southern Division, that a restraining order preliminary to hearing upon motion for a preliminary injunction and organization of a three-judge court should issue without notice, because immediate and irreparable injury, loss and damage will result to the complainants herein before the matters set forth in said bill of complaint can be determined by this court, in that said complainants may be removed from their respective offices in the City of Ecorse, namely, that of Mayor and of Councilmen, respectively, without any adequate remedy at law, without due process of law and without there being any legal remedy available to correct any mistake of legal process or judicial decision that might be made in connection with said removal proceeding.

NOW, THEREFORE, on motion of the complainants it is ordered that the defendants John W. Conlin, G. Mennen Williams, Theodore R. Bohn and Thomas M. Kavanagh and their attorneys, and each of them, their agents, successors, deputies and servants and all persons acting by, through or under them, be and they are hereby restrained until Jan. 21, 1957, or until such further date as this court may determine, from and in any manner continuing with the removal and/or ouster proceedings against the complainants herein named before the Honorable John W. Conlin, Probate Judge for the County of Washtenaw, acting for and in behalf of G. Mennen Williams, Governor of the State of Michigan, until the matters set forth in said bill of complaint filed herein may be determined by this court or by a three-judge court which may be organized in accordance with the prayer for relief contained in the bill of complaint filed herein.

This temporary restraining order without notice is issued by this court on the 14th day of January A.D., 1957, at 12:10 o'clock P.M. in pursuance to Federal Rules of Civil Procedure No. 65, and shall expire 12:00 o'clock noon on Jan. 21, 1957, unless the same is renewed and is granted without the filing of a penal bond because of the fact that nothing except personal constitutional rights is involved.

THEODORE LEVIN
United States District Judge

FRANK J. DINGELL, Clerk
By PAULINE L. OGDEN
Deputy Clerk

APPENDIX "D"

Transcript of Conference at Chambers of District Judge Theodore Levin, in Cause of William W. Voisine, et al. v. John W. Conlin, G. Mennen Williams, et al:

(Jan. 15, 1957)

Conference at Chambers before the Honorable Theodore Levin, District Judge, on Wednesday, January 15, 1957, at 3:50 o'clock in the afternoon.

Present: Mr. Joseph A. Sullivan, Deputy Attorney General.

Mr. Nicholas V. Olds, Assistant Attorney General.

THE COURT: Mr. Sullivan, you are the Deputy Attorney General?

MR. SULLIVAN: Yes, sir.

THE COURT: And Mr. Olds, is an Assistant Attorney General. These men have just come in to see me with respect to a date for the Three-Judge Court hearing on the application for a temporary and more permanent form of injunction. Judge Simons, the Chief Judge of the Court of Appeals of this circuit has designated himself and Chief District Judge Lederle and me to constitute the court. And he has designated January 29 at 10:00 A.M. for the hearing. He said that he would grant an earlier date if the matter were imperative to be held earlier.

Mr. Sullivan and Mr. Olds, in behalf of all of the defendants—and they said they are authorized to speak for all the defendants—have stated that they are agreeable that the restraining order which has been issued by me shall

remain in effect until the matter is disposed of by the Three-Judge Constitutional Court.

I have asked these gentlemen, and I shall today request the attorneys for the plaintiff, to have all motions, if there are to be any, and all briefs presented in triplicate not later than one week before the hearing date,—and that would be the 22nd of January.

APPENDIX "E"

Defendants' Answer to Complaint in cause of William W. Voisine et al. v. John W. Conlin, G. Mennen Williams, Governor, filed in United States District Court:

(Filed, Jan. 22, 1957)

ANSWER

Now come John W. Conlin, Probate Judge of Washtenaw County, G. Mennen Williams, Governor of the State of Michigan, Theodore R. Bohn, Circuit Judge of Wayne County, and Thomas M. Kavanagh, Attorney General for the State of Michigan, defendants herein, and make answer to the matters set forth in the complaint filed in this cause by the plaintiffs above named, reserving unto themselves, however, the rights and benefits of the motion to dismiss said complaint filed simultaneously herewith, and say:

1. Defendants deny that this honorable court has jurisdiction over either the complainants and defendants or the subject matter in the complaint and is therefore without authority to grant the relief sought by complainants.

2. Defendants deny that this honorable court has jurisdiction to grant the injunctive relief sought, and further deny irreparable damage and injury will be done to the complainants herein unless said injunctive relief is granted.

3. Defendants admit the allegations contained in paragraph 3, but say that the contents thereof are irrelevant, immaterial and impertinent.

4. Defendants admit the allegations contained in paragraph 4, but say that the contents thereof are irrelevant, immaterial and impertinent.

5. Defendants admit the allegations contained in paragraph 5, but say that the contents thereof are irrelevant, immaterial and impertinent.

6. The defendants admit the allegations in paragraph 6, but say that the contents thereof are irrelevant, immaterial and impertinent.

7. The defendants admit the allegations contained in paragraph 7, but say that the contents thereof are irrelevant, immaterial and impertinent.

8. The defendants admit the allegations in paragraph 8, but say that the contents thereof are irrelevant, immaterial and impertinent.

9. The defendants admit the allegations of paragraph 9.

10. Defendants admit the allegations contained in paragraph 10.

11. Defendants admit that portion of paragraph 11 alleging that the grand jury, pursuant to the order of the Wayne Circuit Court, commenced investigating alleged illegal practices in the City of Ecorse. Defendants deny the balance of paragraph 11 and ask that it be stricken as purely argumentative. Further answering the allegations of paragraph 11, defendants say that, pursuant to the laws of the State of Michigan, the Grand Juror, the Honorable Theodore R. Bohn, did appoint Assistant Attorneys General, Assistant Prosecuting Attorneys, State Police Officers and Detroit Police Officers to assist him in conducting the judicial investigation.

12. Defendant Theodore R. Bohn, Circuit Judge of Wayne County, admits that complainants were subpoenaed

to appear before the grand jury; he denies, however, that said complainants were not advised of their constitutional rights and says further that it is not incumbent upon the Grand Juror to inform complainants of their constitutional rights; he further says that each of the complainants at all times had an opportunity to consult and did consult with counsel of his own choice. He denies that complainants were questioned at great length pertaining to their own personal affairs, and further denies that such questioning would be a violation of the Fifth Amendment to the constitution of the United States. As to the balance of the defendants, they have no knowledge or information upon which to answer the allegations in said paragraph and therefore neither affirm nor deny said allegations, but leave complainants to their proofs. Defendants further say that the allegations in paragraph 12 of the Complaint are impertinent and argumentative and should be stricken.

13. Defendant Theodore R. Bohn denies each and every allegation in paragraph 13, and further says that such allegations are argumentative and impertinent and should be stricken. Further answering said paragraph, Defendant Theodore R. Bohn says that complainants, along with numerous other witnesses, appeared before him pursuant to subpoenas authorized by law and issued by him, and that at all times they were treated as witnesses giving testimony under oath. As to the balance of the defendants, they have no knowledge or information upon which to answer the allegations in said paragraph and therefore neither affirm nor deny said allegations, but leave complainants to their proofs.

14. Defendants admit that the grand jury issued a grand juror's warrant against the four complainants pursuant to the laws of Michigan, but say that the statute pursuant to which such warrants were issued is Compiled Laws of 1948, Mason's 1954 Supp., section 767.4.

Defendants further answer that the warrant as to the complainants, William W. Voisine, Francis Labadie and Albert Buday was issued on September 28, 1956, and the warrant as to complainant Elmer Korn was issued on October 22, 1956.

Defendants further answer that the appellation "unique" preceding the words "one-man grand jury," is argumentative and should be stricken.

15. Defendants admit that the quoted portion of paragraph 15 is a recitation of a portion of the one-man grand jury statute, viz., section 767.4, Compiled Laws of 1948, Mason's 1954 Supplement, but deny that this section is pertinent to the complaint.

16. Defendants deny that the one-man grand jury commences with Compiled Laws of 1948, section 767.1, and concludes with section 767.6, but say that said grand jury statute commences with section 767.3 and concludes with section 767.6b, Compiled Laws of 1948, Mason's 1954 Supp. Defendants say further that the statutes under which the one-man grand jury acts are irrelevant, immaterial and impertinent.

17. Defendants deny that the allegations contained in paragraph 17 are an accurate recitation of the contents of the aforesaid one-man grand jury law, and defendants refer to the text of said law for determining the context thereof.

18. Defendants deny the allegations contained in paragraph 18 and answer further that the allegations contained therein are irrelevant, immaterial, impertinent and argumentative, and should be stricken.

19. Defendants admit the allegations contained in paragraph 19 pertaining to the authority of the grand jury to indict persons for crimes and to make findings which form the basis for removal hearings against public officials, but deny the balance of said paragraph. Defendants answer further that said allegations are impertinent, argumentative and should be stricken.

20. The defendants deny each and every allegation contained in paragraph 20, and further answer that the allegations contained therein are impertinent and argumentative, and should be stricken.

21. Defendants deny each and every allegation contained in paragraph 21, and further answer that the allegations contained therein are impertinent, scandalous and argumentative, and should be stricken.

22. Defendants deny each and every allegation contained in paragraph 22 and further answer that the allegations contained therein are scandalous, incoherent and argumentative, and should be stricken.

23. Defendants admit that portion of paragraph 23 stating that complainants attended a preliminary examination, but answer that said examination was held at the request of the complainants. Defendants admit that said examination was concluded on or about November 26, 1956, but deny that the Justice of the Peace determined that there was probable cause to hold said complainants for trial. Defendants answer further that the said Justice determined that crimes not cognizable by a Justice of the Peace had been committed, and that there was probable cause to believe that said complainants committed these crimes, and therefore bound said complainants over to Circuit Court for trial.

24. Defendants admit the allegations contained in paragraph 24.

25. Defendants deny the allegations contained in paragraph 25, but say in answer that the said removal charges were made by the Honorable Theodore R. Bohn, the one-man grand juror, and forwarded by him to the Governor; that after having considered said charges or findings, the Governor issued an Executive Order appointing the Honorable John W. Conlin to take testimony with regard thereto, and the Honorable Thomas M. Kavanagh to represent the State.

26. Defendants admit that the complainant, Elmer Korn, was indicted by the grand jury upon a different charge, viz., accepting a bribe, and that his removal is predicated upon this ground. Defendants neither affirm nor deny the balance of the allegations contained in paragraph 26 but leave complainants to their proofs, but defendants further answer that the allegations contained therein are impertinent, incoherent and argumentative, and should be stricken.

27. Defendants admit the allegations contained in paragraph 27 and answer further that the removal proceedings were continued from November 13, 1956, to November 21, 1956, then to January 7, 1957, then to January 9, 1957, then to January 23, 1957, all at the request of complainants. Presently the matter stands continued pending the outcome of complainants' suit in this court.

28. Defendants admit the allegations contained in paragraph 28, but answer further that said allegations are impertinent. Further answering said allegations, Defendant John W. Conlin says that he has no authority to pass upon said motions and objections but has noted them in the record which will be sent to the Governor. Further answer-

ing said allegations, Defendant G. Mennen Williams says that he has had no opportunity to pass upon said allegations, but will do so when they are forwarded to him pursuant to the law of the State of Michigan.

29. Defendants admit that complainants objected to proceeding with the removal proceedings, but answer further that such allegations are impertinent and argumentative, and should be stricken.

30. Defendants deny each and every allegation contained in paragraph 30, and further answer that complainants have a complete and adequate remedy at law in the State courts if they are wrongfully removed from office.

31. Defendants neither admit nor deny the allegation contained in paragraph 31 pertaining to the reply and motion containing constitutional objections to the removal proceedings but leave complainants to their proofs. Defendants further answer that such allegation is impertinent to the complaint. Defendants deny that any statute of the State of Michigan requires the Attorney General to furnish to the complainants subpoenas in connection with the removal hearing.

Defendants further answer that the defendant, Thomas M. Kavanagh, has not ignored nor neglected requests in behalf of the complainants, but has pointed out to counsel for plaintiffs there is no such requirement under the laws of the State of Michigan and that the request for subpoenas should be directed to a justice of the peace or prosecuting attorney.

Defendants further answer that counsel for Complainant William W. Voisine has conferred with the Honorable Thomas Kenney, one of the Judges of the Common Pleas

Court for the City of Detroit, and has been assured that said Judge would issue the required subpoenas.

32. Defendants neither admit nor deny the allegations contained in paragraph 32 but leave complainants to their proofs. Defendants further answer that the allegations contained in paragraph 32 are argumentative and impertinent, and should be stricken.

Defendants further answer that witnesses appeared at the preliminary examination on behalf of complainants while the grand jury was in session and testified to material facts in issue and to character.

Further answering, defendants say that the sessions of the grand jury constitute no legal impediment to the securing of witnesses by the complainants to testify in their behalf in the removal proceedings, and that said complainants are free to subpoena any witnesses they desire in the manner set forth in the answer to paragraph 31.

33. Defendants deny that the charges against complainants in the proceedings arise out of an unconstitutional statute or that they are vague, general and indefinite and do not apprise complainants of the specific nature of the charges. Defendants admit that a request for a more specific bill of particulars on behalf of the Complainant Francis Labadie was denied by the defendant, the Honorable John W. Conlin, but deny that any such request was made by the other complainants or ruled upon by the Honorable John W. Conlin.

Defendants further answer that as to the complainants, William W. Voisine, Francis Labadie and Albert Buday, the removal is predicated on charges of conspiring to obstruct justice in a warrant drawn according to the laws

of the State of Michigan and upon which a lengthy and exhaustive preliminary examination was held, lasting from October 23, 1956, until November 15, 1956, at which time counsel for the complainants conducted a searching, detailed cross-examination pertaining to the charges in the warrant. Defendants further answer that a transcribed record of said examination can be made available to the court, if deemed necessary.

34. Defendants admit that the complainants filed with the defendant, John W. Conlin, certain verified documents stating that complainants would not be able to obtain witnesses to testify in their behalf, but as to their contents, defendants leave proof thereof to complainants. Defendants deny that because said proposed witnesses are also under indictment they are precluded from being subpoenaed and testifying in the removal proceedings.

Defendants further answer that the alleged inability of complainants to compel other persons under indictment to testify in their behalf constitutes a denial of due process. As to the balance of the allegations, defendants answer that they are impertinent and argumentative, and should be stricken.

35. Defendants admit that portion of paragraph 35 pertaining to the ruling of Honorable John W. Conlin that the removal proceedings before the Governor are quasi-judicial.

Defendants deny the balance of the allegations contained in paragraph. Defendants further answer that the said balance of these allegations are incoherent, argumentative and conclusions of law, and should be stricken.

36. Defendants deny each and every allegation contained in paragraph 36.

37. Defendants deny each and every allegation in paragraph 37. Defendants further answer that the allegations contained in paragraph 37 are argumentative and constitute conclusions of law, and should be stricken.

38. Defendants deny each and every allegation contained in paragraph 38, and further answer that the allegations contained therein are scandalous, impertinent, incoherent and argumentative, and should be stricken.

Defendants further answer that there has been no delay in the criminal proceedings against the complainants; that the filing of the information in the criminal case is in no way related to the removal proceedings, nor is the arraignment on the information related to the removal proceedings.

Defendants further answer that the complainants have been granted every request made for a continuance, and that as of the date of this answer no testimony has yet been taken which would be the basis for removing complainants from office because of the dilatory tactics of complainants.

Defendants further answer that the letter from the Honorable G. Mennen Williams to the Honorable John W. Conlin, which is attached to this answer as Appendix I, further refutes the allegation of undue haste in the removal proceedings by the defendants.

39. Defendants admit that motions to quash on behalf of the complainants, William W. Voisine and Francis Labadie, have been filed, but deny that complainant Elmer Korn has demanded that an information against him be filed, and further that an information against said Elmer Korn was filed by the prosecuting attorney's office on January 11, 1957.

Defendants further answer that the motion to quash the informations in the criminal proceedings are in no way related to or connected with the removal proceedings.

Defendants further answer that the informations charging the respective complainants with crimes against the State of Michigan have been prepared and given to the Prosecuting Attorney's office in Wayne County and filed in the normal course of business.

40. Defendants deny the allegation in paragraph 40 pertaining to exhausting all legal remedies available to them. Defendants further deny that complainants have not sought nor taken advantage of dilatory tactics in the removal proceedings. Defendants admit that complainants have not delayed the criminal proceedings in the Wayne Circuit Court, but defendants further answer that all such allegations, with the exception of exhausting legal remedies, are impertinent and irrelevant and should be stricken.

41. Defendants deny each and every allegation contained in paragraph 41. Defendants further answer that the allegations contained therein are impertinent, scandalous, argumentative, and are conclusions of law, and should be stricken.

Defendants further answer that the laws of the State of Michigan require a grand juror to make written findings of fact when he finds from the evidence that there is probable cause to believe that any public officer has been guilty of misfeasance or malfeasance in office or willful neglect of duty; that the laws of the State of Michigan require the Governor to act upon said findings of fact. Defendants further answer that there is no connection in law between the removal proceedings and the criminal charges now pending against complainants.

42. Defendants admit that motions to quash subpoenas before the Honorable Theodore R. Bohn were filed and heard by the one-man grand juror on November 8, 1956. Defendants further answer that time was requested by counsel for one of the witnesses within which to file a brief and an agreement was made between the court and counsel that no decision would be given until the said brief was filed. As of the date of this answer, said brief has not been filed and therefore no decision made on the motion to quash.

Defendants further answer that the allegations in paragraph 42 are impertinent and irrelevant, and should be stricken.

43. Defendants deny each and every allegation contained in paragraph 43.

Defendants further answer that the taking of testimony by the Honorable John W. Conlin in connection with the removal proceedings does not deprive complainants of any constitutional rights, and further that complainants have a complete and adequate remedy under the laws of the State of Michigan for an unwarranted or arbitrary removal from public office.

44. Defendants deny each and every allegation in paragraph 44. Defendants further reply that there are no private nor property rights in a political office, and further reply that the allegations contained in paragraph 44 are incoherent, disconnected and argumentative, and should therefore be stricken.

45. Defendants deny that complainants are without any remedy except in a federal court of equity, and deny that the complainants' constitutional rights are involved, and further deny that a large sum of money is involved.

46. Defendants deny that complainants had only from January 9, 1957, until January 14, 1957, to present their petition to this court. Defendants answer further that complainants have had since November 1, 1956, when they were served with notice of removal proceedings (see paragraph 24 of complaint) within which to file their complaint in federal court or exhaust their State remedies.

Defendants neither affirm nor deny the allegation that, as a result of the time fixed, complainants have not been able to formulate and present to this court in the best form that they would desire a complaint which would chronologically and fairly put their story in the issue to this court, but leave complainants to their proofs.

47. Defendants admit that removal proceedings are based, in substance, upon the charges in the criminal cases now pending against complainants, but deny that this is in any way a violation of the constitutional rights of the complainants.

48. Defendants neither admit nor deny the allegations contained in paragraph 48, having no knowledge upon which to answer such allegation, and therefore leave the complainants to their proofs.

49. Defendants deny the allegation contained in paragraph 49 indicating that complainants have not had an opportunity to assemble and bring together all of the documents and instruments necessary for a full understanding by this court of the issues and problems involved, and say further that the allegations in this paragraph are irrelevant and immaterial, and should be stricken.

Defendants answer further that complainants have had approximately two and one-half months in which to pre-

pare and present to this court a complaint entailing all of the pertinent data necessary to support the theory of the complainants that this court has the authority to enjoin removal proceedings.

50. Defendants deny each and every allegation in the complaint not heretofore specifically denied and leave complainants to their proofs thereof.

AFFIRMATIVE DEFENSES AND SPECIAL MATTERS

In addition to the foregoing, the defendants will raise in their behalf the following affirmative defenses and special matters:

1. This honorable court, sitting as a court of equity in this cause, has no authority or jurisdiction, under the Constitution of the United States and the laws passed pursuant thereto, over proceedings instituted and pending before the Governor of the State of Michigan for the removal of the plaintiffs as elected public officials of the City of Ecorse, Wayne County, Michigan.

2. This honorable court has no authority to hear or determine the matters set forth in the complaint since such matters are of a political nature and thus are not justiciable.

3. The complaint filed herein by the complainants does not state a cause of action cognizable by this court either in equity or law.

4. The complaint filed herein by the complainants does not present to this court a substantial federal question calling for intervention and adjudication by this court.

5. The complaint is, in substance, a suit brought against the State of Michigan to enjoin it from exercising its sovereign political powers, and this court is without jurisdiction to hear, try or determine the matters set forth in the complaint.

6. Complainants have full, adequate and sufficient remedies at law under the legal and judicial processes of the State of Michigan, and complainants have failed to exhaust the remedies provided for them in the courts of the State of Michigan.

Wherefore, and by reason of all of which defendants deny that complainants are entitled to the relief for which they pray in their complaint, and defendants respectfully submit to this honorable court and pray that the said complaint be dismissed with costs by them herein sustained.

Thomas M. Kavanagh
Attorney General of the State of Michigan
By Joseph A. Sullivan
Joseph A. Sullivan
Deputy Attorney General
Nicholas V. Olds
Assistant Attorney General
Attorneys for the Defendants

Appendix "I," attached to Answer of Defendants filed in United States District Court in cause of William W. Voisine, et al. v. John W. Conlin, G. Mennen Williams, Governor, et al.

Letter from Governor Williams to John Conlin, Probate Judge.

(Dated, Nov. 20, 1956)

Appendix I

November 20, 1956

Honorable John Conlin
Judge of Probate
1300 Linwood
Ann Arbor, Michigan
Dear Judge Conlin:

By letter of November 15, 1956 I have received from Francis K. Young, attorney for William W. Voisine, a pleading designated as a "Reply and Motions" bearing on the removal proceeding against Mayor Voisine.

The pleading in general challenges the procedural steps taken in connection with the removal proceeding, and, more specifically, seeks to have the conduct of the hearing adjourned until the conclusion of the criminal prosecution directed against Mayor Voisine.

It is not clear whether the pleading is addressed to me or to you as the person appointed by me pursuant to the provisions of Section 201.7, CL '48. However, I have carefully examined it, and it is my opinion that the several objections contained therein do not provide a basis for dismissing or adjourning the removal proceeding.

Therefore, insofar as Mr. Young intended to submit the pleading to me for disposition, I do deny its several prayers for relief.

There are no well established rules of procedure for removal proceedings. However, in this instance it is possible that any of the four officials whose removal has been requested by Judge Bohn may file further motions to dismiss, adjourn, and etc. It is my request, and I do hereby authorize you to rule for me on any such motion, with the following standards in mind:

1. It is my opinion that the statutory requirements necessary to confer jurisdiction on me to consider the removal of the four officials have been met.

2. It is my opinion that the statutory requirements necessary to confer jurisdiction on the Attorney General to present the charges, and on you to conduct the hearing at which the evidence will be submitted, have been set.

3. The accused officials' constitutional rights will not, in my opinion, be violated by the conduct of the hearing at this time.

4. It is my wish that requests for adjournment based on the convenience or necessities of the parties or their counsel be granted at your discretion.

Sincerely,
/s/ G. Mennen Williams
Governor

Special Delivery

CC: Francis K. Young, Atty. 1657 Penobscot Bldg. Detroit. Attorney General Thomas M. Kavanagh.

(p85a is blank)

APPENDIX "F"

Defendants' Motion to Dismiss Complaint, filed in United States District Court in cause of William W. Voisine et al. v. John W. Conlin, G. Mennen Williams, Governor, et al.

(Filed, Jan. 22, 1957)

MOTION TO DISMISS

Now come John W. Conlin, a Probate Judge of the County of Washtenaw, State of Michigan, G. Mennen Williams, Governor of the State of Michigan, Theodore R. Bohn, a Circuit Judge of the Circuit Court for the County of Wayne, State of Michigan, and Thomas M. Kavanagh, Attorney General of the State of Michigan, by Thomas M. Kavanagh, Attorney General of the State of Michigan, Joseph A. Sullivan, Deputy Attorney General, and Nicholas V. Olds, Assistant Attorney General, and appearing specially in the above cause for the purposes of this motion, move this Honorable Court to dismiss the above cause and the complaint filed herein for the following grounds and reasons:

1. This Honorable Court, sitting as a court of equity in this cause, has no authority or jurisdiction under the Constitution of the United States and the laws passed pursuant thereto, over proceedings instituted and pending before the Governor of the State of Michigan for the removal of the plaintiffs as elected public officials of the City of Ecorse, Wayne County, Michigan.

2. This Honorable Court, sitting as a court of equity in this cause, has no authority to hear or determine the matters and things set forth in the complaint in so far as they

relate to the proceedings instituted and pending before the Governor of the State of Michigan for the removal of the plaintiffs from elective public offices of the City of Ecorse, Wayne County, Michigan, since said matters and things are of a political nature and thus are not justiciable.

3. This Honorable Court has no judicial power nor jurisdiction by its injunctive processes or by any other of its processes to restrain or enjoin the Governor of the State of Michigan from the performance of his executive, constitutional functions, said Governor, under our democratic system of government, being an independent and coeval branch of the government of the State of Michigan.

4. The complaint filed herein by the plaintiffs does not state a cause of action cognizable by this Court either in equity or law.

5. Complaint filed herein by the plaintiffs does not present to this Court a substantial federal question calling for the intervention and adjudication by this Court.

6. The above cause is, in fact and in substance, a suit brought against the State of Michigan to enjoin it from exercising its sovereign political powers, and this Court is without jurisdiction and without judicial power to hear, try or determine the matters and things set forth in the complaint, inasmuch as such power is denied to this Court by the provisions of the Eleventh Amendment to the Constitution of the United States.

7. The above cause is, in fact and in substance, a suit brought against the State of Michigan to enjoin it from exercising its political and sovereign powers and, as such, this Court does not have jurisdiction nor the judicial power to hear, try and determine the matters and things set forth

in the complaint because the State of Michigan, neither by legislative act nor by any other official act, has consented to be sued in the courts of the United States and is, in fact, immune from such suit brought by the plaintiffs in any of the courts of the United States.

8. The plaintiffs herein have full, adequate and sufficient remedies at law under the legal and judicial processes of the State of Michigan in which all of the allegations made by them in their complaint may be fully and completely adjudicated in an orderly manner; and said plaintiffs have failed, prior to the filing of this suit, to avail themselves of such legal and judicial processes and remedies and have failed to exhaust the remedies provided them in the courts of the State of Michigan.

9. The complaint of the plaintiffs apparently seeks to enjoin criminal proceedings pending in a court of the State of Michigan, namely, in the Circuit Court for the County of Wayne, and proceedings now pending before the Governor of the State of Michigan, contrary to the provisions of Title 28, United States Code, section 2283.

10. The matters in controversy set forth in the complaint of the plaintiffs do not exceed Three Thousand Dollars ($3,000.00), exclusive of interest and costs, as required by Title 28, United States Code, section 1331.

11. The complaint filed by the plaintiffs in this cause seeks to secure premature adjudication by this Court of legal matters, many of which may never become issues in any court of competent jurisdiction or in the conduct of the removal proceedings now pending before the Governor of the State of Michigan, and before the courts of the State of Michigan and the Governor of the State of Michigan

have had an opportunity to try, hear and determine such issues.

12. The complaint filed by the plaintiffs is faulty and does not merit the attention of this Court because it is a multifarious, incoherent, scandalous pleading, containing immaterial and argumentative allegations of fact and law, and attempting to put in one complaint and secure adjudication by this Honorable Court of unrelated allegation and issues of fact and law.

This motion is based upon the files and records of this cause and upon so much of the answer filed by the defendants as may be necessary for the determination of the issues presented herein.

By Thomas M. Kavanagh
Thomas M. Kavanagh
Attorney General, State of Michigan
By Joseph A. Sullivan
Joseph A. Sullivan
Deputy Attorney General
By Nicholas V. Olds
Nicholas V. Olds
Assistant Attorney General
Attorneys for Defendants

Dated at Lansing, Michigan,
January 22, 1957.

APPENDIX "G"

Reply of Plaintiff William W. Voisine, to Defendants' Motion to Dismiss, filed in United States District Court in Cause of William W. Voisine et al. v. John W. Conlin, G. Mennen Williams, Governor, et al.

(Filed, Jan. 29, 1957)

REPLY TO MOTION TO DISMISS

Now comes William W. Voisine by and through his attorney, Francis K. Young, and for answer to plaintiffs' Motion to Dismiss states:

1. He denies the allegations contained therein.

2. He denies the allegations contained therein.

3. He denies the allegations contained therein.

4. He denies the allegations contained therein.

5. He denies the allegations contained therein.

6. He denies the allegations contained therein.

7. He denies the allegations contained therein.

8. He denies the allegations contained therein.

9. Plaintiff denies that he seeks to restrain criminal proceedings pending in a court of the State of Michigan, but does claim that he desires to restrain and prevent a

hearing on the ouster and/or removal proceeding which will involve self-incrimination, in direct violation of the Fifth Amendment to the Constitution of the United States prior to the time that the criminal proceeding is heard and disposed of.

10. He denies the allegations contained therein.

11. He denies the allegations contained therein.

12. He denies the allegations contained therein.

For further answer to said Motion to Dismiss, your plaintiff alleges that no other remedy exists in this particular matter and makes reference to the decisions cited in plaintiffs' brief of People Ex Rel v. Coffey, and the case of Born v. Dillman, together with the transcript of testimony taken before the defendant, the Honorable John W. Conlin.

Plaintiff further states in reply to the entire motion that there is not one single case cited in the brief of the defendants which is directly because in no case cited has any defendant such as John W. Conlin, Theodore R. Bohn and the Honorable Thomas M. Kavanagh, attempted to bring a civil and criminal proceeding under the same charges and compel a person to go to trial on the civil charges, thereby involving the doctrine of self-incrimination and expressing their own defense to the criminal proceeding prior to going to trial on the criminal proceeding.

By Francis K. Young
FRANCIS K. YOUNG
Attorney for William W. Voisine
1657 Penobscot Building
Detroit 26, Michigan
WOodward 1-7293

Jan. 28, 1957.

APPENDIX "H"

Amended Order holding in Abeyance the Determination of Questions submitted until Determination of Criminal Trials, or until further Order of Court, and continuing in effect Temporary Restrain-Order.

(Filed and entered, Feb. 1, 1957)

The application for a temporary injunction and the motion to dismiss the complaint having come on to be heard, and

It appearing that the plaintiffs have been informed against and are now subject to criminal proceedings and removal proceedings arising out of a one-man grand jury inquiry, and

It appearing that the plaintiffs may forthwith be tried in the said criminal trials and that upon determination of the said criminal trials constitutional questions set out in the complaint may then become moot,

And it appearing that the plaintiffs may be prejudiced in the pending criminal proceedings by the investigation of the State in the removal proceedings, therefore,

This Court will hold in abeyance the determination of the questions submitted until the termination of the said criminal trials or until the further order of this Court, and pending such determination by this Court the restraining order heretofore issued shall remain in full force and effect.

Charles C. Simons
Chief Judge, United States Court of Appeals for the Sixth Circuit
Theodore Levin
United States District Judge
Eastern District of Michigan

Chief United States District Judge Lederle dissenting; thinks the case is ripe for disposition.

Detroit, Michigan
February 1, 1957

APPENDIX "I"

Defendants' Motion to dissolve Temporary Restraining Order or, in the Alternative, to pass on Defendants' Motion to Dismiss Complaint, filed in United States District Court in Cause of William W. Voisine et al. v. John W. Conlin, G. Mennen Williams, Governor, et al.

(Filed, Feb. 28, 1957)

MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER OR, IN THE ALTERNATIVE, TO PASS ON DEFENDANTS' MOTION TO DISMISS

Now come G. Mennen Williams, Governor of the State of Michigan, and Thomas M. Kavanagh, Attorney General, and move this Court to dissolve the temporary restraining order issued by the Court on the 14th day of January, 1957, and continued in effect on the 1st day of February, 1957, for the following grounds and reasons:

1. For the purpose of this motion, these defendants adopt all the grounds and reasons set forth in their motion heretofore filed in this cause on January 22, 1957, to dismiss the complaint.

2. This Court was without legal authority or jurisdiction to continue said restraining order after the completion of the hearing on complainants' application for a temporary injunction and on defendants' motion to dismiss.

3. This Court had no legal authority to refuse to decide defendants' motion to dismiss and enter its order of February 1, 1957, continuing the temporary restraining order, which, in effect, becomes a temporary injunction.

4. This Court's refusal to decide defendants' motion to dismiss this cause for lack of jurisdiction, and the issuance

of its order of February 1, 1957, amounts to an arrogation of power which this Court does not possess and which was not delegated to it by the Constitution of the United States nor any laws passed pursuant thereto.

5. The non-action on the part of this Court on defendants' motion to dismiss, coupled with its restraining order of February 1, 1957, results in an unconstitutional interference on the part of the Federal judiciary in the political affairs and responsibilities of the Governor of the State of Michigan; namely, the disciplinary authority of the Governor of this State over its municipal and local public officials.

6. That such interference with the duties and prerogatives of the Governor of this State is inimical to the public good and interest because the Governor is thereby prevented from determining, after hearing, whether said public officials should remain in office and be allowed to conduct the public affairs of a municipality.

Wherefore, G. Mennen Williams, Governor of the State of Michigan, and Thomas M. Kavanagh, Attorney General of the State of Michigan, pray this Honorable Court to dissolve the aforesaid temporary restraining order or, in the alternative, grant or pass upon defendants' motion to dismiss.

This motion is based upon the files and records in the cause and the affidavit of Joseph A. Sullivan, hereto attached.

THOMAS M. KAVANAGH
Attorney General
Joseph A. Sullivan
Deputy Attorney General
Nicholas V. Olds
Assistant Attorney General
Attorneys for Defendants

Dated at Lansing, Michigan
February 27, 1957

AFFIDAVIT

Joseph A. Sullivan, being duly sworn, deposes and says that he is the Deputy Attorney General for the State of Michigan and that since August 1, 1956, he has been assigned as an aide to the judicial investigation conducted by the Honorable Theodore R. Bohn, Circuit Judge for the Third Judicial Circuit of Michigan; that as a result of this investigation the Honorable Theodore R. Bohn, sitting as a one man grand juror, has issued warrants or indictments against a number of city officials, law enforcement officers, gamblers and other individuals, charging that there was probable cause to believe that these individuals had conspired to obstruct justice contrary to the laws of the State of Michigan; that among the defendants in this case are the present Mayor of the City of Ecorse, two of the present Councilmen of the City of Ecorse, four of the five members of the City of Ecorse Police Commission, a Police Inspector who was formerly Chief of Police, the Deputy Chief of Detectives and an Inspector of the Ecorse Police Department (a third member of the Council was charged in a separate warrant with bribery); that the said police officers presently occupy positions which, inter alia, carry with them the duty of investigating and suppressing gambling in the City of Ecorse; that all of the above-mentioned individuals and their positions in the City of Ecorse are more fully set out in the copy of the grand juror's warrant attached to the Complainants' complaint in the above entitled cause.

Deponent further says that on the day following the issuance of the grand juror's warrant against the above-mentioned police officers of the City of Ecorse, the present Chief of Police for the City of Ecorse, one Alvin Royal, suspended the three police officers pending the determination of their guilt or innocence on the charges made in the

warrant; that approximately ten days after the above-mentioned suspension (to-wit: October 11, 1956) the four remaining members of the Police Commission for the City of Ecorse (all of whom were themselves named as defendants in the same conspiracy in the warrant referred to) revoked and set aside the action of the Chief of Police and reinstated the three police officers in question; that the fifth member of the Police Commission, namely, William Montry, took no action in the reinstatement of the police officers since he had previously resigned as Commissioner and was named a co-conspirator and witness for the People in the above-mentioned conspiracy and was, at that time, in the protective custody of the Michigan State Police.

Deponent further says that following the issuance of the grand juror's warrant against the above-mentioned individuals, a preliminary examination was held before Justice of the Peace Douglas L. Paterson and subsequently all the above-referred to individuals were held for trial in the Circuit Court.

At the present time the three above-mentioned police officers are occupying the same positions held prior to the issuance of the warrant and are functioning in the same capacity, to-wit: positions which call for the investigation and suppression of gambling in the City of Ecorse.

Deponent further says that under the charter provisions of the City of Ecorse decisions of the Police Commission, the members of which are appointed by the Mayor with the consent of the Council, are final; that the only remedy available to the people of Ecorse for improper acts of the Police Commission is removal of said Commissioners by the Mayor and Council, but that the Mayor, who sits and votes as a Councilman, and three of the six Councilmen are themselves awaiting trial as a result of warrants issued by the grand jury and, with the exception of one Council-

man who faces a separate bribery charge, are all charged in the same warrant charging conspiracy to obstruct justice.

Deponent further says, on information and belief, that gambling operations are still being carried on in the jurisdiction of the above-mentioned Ecorse police officials; that the efforts of the grand juror and those assigned to assist him in his judicial investigation have been hampered by the continuation of the above-mentioned police officers in their role of law enforcement officers for that City.

Deponent further says, on information and belief, that the action of the indicted Police Commission revoking the suspension of the indicted officers and the failure to suspend or remove said Commission by the Mayor and Council (four out of seven being themselves indicted) has resulted in an intolerable situation with respect to law enforcement, viz., law enforcement officers and other witnesses who could give valuable information to the grand jury regarding graft in Ecorse are reluctant or afraid to do so because all of the indictees continue to hold offices with attendant powers and authority which could be used to defeat the ends of justice, and hence such prospective witnesses have good reason for fearing retaliation.

Dependent further states, on the basis of the aforegoing paragraphs, some of which are stated on information and belief, that the end result of those indicted continuing to hold office constitutes a perpetuation of the conspiracy to obstruct justice.

Deponent further says that attached hereto are pertinent provisions of the Charter of the City of Ecorse adopted by the electors of said City on January 27, 1942.

Joseph A. Sullivan

[Duly verified]

EXCERPTS FROM CHARTER OF CITY OF ECORSE

Chapter IV

Elective Officers, Salaries and Duties

Section 8. If a vacancy occurs in any elective office, the City Council shall within two weeks after the determination of such vacancy appoint an eligibie person to fill such vacancy until the next regular municipal election, when such office shall be filled by election.

Section 9. The Mayor shall be the Chief Executive Officer of the City. He shall preside at the meetings of the Council, shall be a member of the Council and have the right to vote on all questions and to offer resolutions, introduce ordinances and exercise all other rights, powers and privileges of a member of said Council but shall have no power of veto. He shall from time to time give the Council information concerning affairs of the City and see that the laws relating to the City and the ordinances and regulations of the Council are enforced.

He shall be a conservator of the peace and may exercise within the city the powers conferred upon sheriffs to suppress disorder and shall perform all such duties and have such powers as are or may be prescribed by this Charter, by ordinances, by resolutions of the City Council and by the laws of the State of Michigan. He shall authenticate by his signature such instruments as the City Council, this Charter or the laws of the State require.

Section 10. Each member of the City Council shall have such powers and perform such duties as are provided in Chapter V of this Charter.

Chapter V

City Council

Section 1. The Council of the City of Ecorse shall consist of seven (7) members, viz., the Mayor and six (6) Councilmen. Where the word "Council" is used herein it shall be deemed to include the Mayor.

Section 2. The City Council shall have full power and authority except as herein otherwise provided to exercise all the powers conferred upon the City, and it is authorized to pass all laws and ordinances relating to its municipal concerns and provide proper penalties for the violations thereof subject to the Constitution and general laws of the State and this Charter.

Section 3. The Mayor shall preside at the meetings of the Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of the Mayor and the Mayor Pro Tempore, the Council shall designate one of its number to act as presiding officer.

Section 4. The Councilman receiving the highest number of votes at the preceding election shall be Mayor Pro Tempore during his term of office.

Section 5. The Council shall be the judge of the qualifications of its own members subject to review by the courts in cases of contest.

Section 6. A majority of the Council shall constitute a quorum for the transaction of business; but a less number may adjourn from time to time and all pending business

and business noticed and set down for hearing at such meeting shall be taken up and heard at such adjourned meeting without further notice; and the members present may compel the attendance of absent members in such manner as shall be prescribed by rules or ordinances.

Except as otherwise provided in this Charter, the affirmative vote of a majority of the members of the Council shall be necessary to adopt an ordinance or resolution, but no office shall be created or abolished, nor any tax or assessment be imposed, nor any street, alley, or public ground be vacated, real estate or any interest therein purchased, leased, sold or disposed of, or private property be taken for public use, unless by a concurring vote of five-sevenths (5/7) of the Council elect, nor shall any vote of the Council be reconsidered or rescinded at a special meeting unless there be present as many councilmen as were present when the vote was taken.

Section 8. Any member of the Council who shall have been convicted of a felony while in office shall thereby forfeit his office.

Chapter VI

Department of Public Safety

Section 19. There is hereby created in the Department of Public Safety a police and fire commission which shall consist of five (5) members. One member of such commission shall be appointed each year by the Mayor on the 3rd Tuesday in November, subject to confirmation by the Council and shall hold office for a term of five (5) years; provided, however, that the first commission shall be appointed within thirty (30) days after the adoption of the Charter, and the members thereof shall be appointed for

terms ending on the 3rd Tuesday in November, 1942, 1943, 1944, 1945 and 1946 respectively. All members shall hold offices until their successors are appointed, qualified and enter upon the duties of their office. Membership on such commission shall be honorary and the members thereof shall serve without compensation.

Section 20. The Police and Fire Commission shall have general control and management of the Police Department and Fire Department. Said Commission shall at its first regular meeting after the adoption of this Charter and at its first regular meeting after the 3rd Tuesday in November each year, elect a chairman, a vice-chairman and a secretary from among its number. It shall meet regularly each month and at such other times as it deems necessary. All regular meetings shall be held in the Municipal Building. It shall adopt rules for its own procedure and provide for the keeping of a complete record thereof.

Section 21. The Police and Fire Commission shall when a vacancy exists appoint a Chief of Police and a Chief of Fire Department, both of whom shall be directly responsible to the Commission, and the executive head of the Police Department shall be the Chief of Police and the executive head of the Fire Department shall be the Chief of Fire Department. In addition to the respective chiefs, there shall be in the Police Department and in the Fire Department, such number of policemen and firemen, respectively, as the Council shall from time to time authorize or deem necessary to protect said City from lawlessness or ravages of fire. The Council may also authorize the employment of civilian employees who, however, shall not be considered as members of the Police force or Fire force as those terms are used in this Charter. All persons appointed to either the Police force or Fire force, except those appointed to office of Chief, shall be first appointed as probationary members

thereof. All members of the Police and Fire forces shall be residents of the City of Ecorse.

Section 23. The Commission shall adopt rules and regulations for organization and conduct of the Police and Fire Departments, for the rank of the members of the Police and Fire forces, and for punishment for breaches of discipline or violations of rules and regulations. The Commission may discipline, suspend temporarily and discharge permanently, any member of the Police or Fire Department for any cause which the Commission in the exercise of their discretion deem sufficient, provided, however, that neither the Chief of the Police Department nor the Chief of the Fire Department, nor any member of the police or fire forces except a probationary member shall be dismissed unless a formal complaint of the cause or causes of his suspension or removal be served upon him, and after trial and conviction by the Commission sitting as a trial board. The decision of the Commission shall be final. Such rules shall provide for the manner of making such complaint and for the procedure upon such a trial.

Section 27. The Chief of Police and the Chief of Fire Department shall have all the powers and duties conferred by the laws of this State upon such officers. In addition to such duties as are required of them by the laws of this State and the provisions of this Charter, they shall perform such other duties as may be prescribed by ordinance or by the Commission. They shall each make such reports as are required by law or by resolution of the Commission or Council.

Members of the police force shall have power and it shall be their duty to enforce the penal laws of the State, the penal ordinances of the city and the penal provisions of this Charter; to suppress all riots, disturbances and

breaches of the peace; to arrest all persons fleeing from justice; in compliance with the laws of the State, to apprehend persons guilty or suspected of being guilty of violation of the laws of the State, the ordinances of the City, or the provisions of this Charter; to make complaints before the proper officer or magistrate against any person known or believed by them to be guilty of any violation of the laws of the State, the ordinances of the City or the provisions of this Charter; to serve all processes that may be delivered to them in criminal and ordinance cases. When any person has committed or is suspected of having committed any crime, or misdemeanor within the city or has escaped from the city prison or from custody of the police, the police force of the city shall have the same right to pursue, arrest and detain such person without the city limits as the sheriff of the county, and the police shall have the same powers and rights in relation to offenses against the ordinances of the City and the provisions of this Charter. They shall have all the powers given by law to constables for the preservation of quiet and good order and in relation to the enforcement of the laws of the State and ordinances of the City, and in addition thereto, shall have such other powers as are conferred generally upon peace officers of the State. They shall perform such other duties as may be required of them by the Police and Fire Commission for the good government of the City.

Chapter III

Registration, Nomination and Election

Section 9. The Chief of Police shall have charge of, supervise and be responsible for the delivery of all ballot boxes, supplies, stationery, ballots and accessories, to the election inspectors and election boards at each place of voting at least fifteen minutes before the time of opening

of the polls. He shall also take charge of said ballot boxes immediately after the election upon their being sealed by the Board of Election Inspectors, and at once deliver them to the City Clerk at his office. He shall properly guard said boxes and secure them from tampering or disturbance from the time they may be delivered to him by the clerk until they are returned to the office of the clerk after sealing.

Chapter VII

General Provisions Relating to Officers

Section 16. A majority of the Councilmen elect, exclusive of the Mayor, may suspend any appointive officer of the City by resolution, adopted at any regular meeting, specifically charging neglect of duty, misconduct in office, or other sufficient cause or causes as a basis for removal.

The salary of such suspended officer shall be immediately terminated, but shall be reinstated if removal charges are not preferred or sustained as herein provided.

No suspension shall result in removal unless a copy of the suspension resolution, and a statement of the offense or offenses and time and place thereof, shall be served personally on such officer, or left with a person of suitable age and discretion at the last known place of residence of such suspended officer, within seventy-two (72) hours after suspension.

The said officer shall have the privilege of filing an answer to said charges within five (5) days after service upon him of a copy thereof. The Council shall hear such complaint and charges, and defense if any, at its next regular meeting.

Should no charges be served within the time provided or be not sustained at the hearing thereof, said officer may resume the duties of his office as if no suspension had been made. A majority of the Council elect, exclusive of the Mayor, may determine at such hearing that the charges have been sustained and may remove such officer.

APPENDIX "J"

Answer of William W. Voisine to Motion to dissolve Temporary Restraining Order or, in the Alternative, to pass on Defendants' Motion to Dismiss Complaint. Supporting Affidavits thereto attached.

(Filed, March 11, 1957)

ANSWER OF WILLIAM W. VOISINE TO MOTION TO DISSOLVE TEMPORARY ORDER OR IN THE ALTERNATIVE TO PASS ON DEFENDANTS' MOTION TO DISMISS.

Now comes Francis K. Young, attorney for William W. Voisine, one of the above named complainants, and for answer to defendants' motion to dissolve temporary restraining order states:

I. In answer to the allegations contained in paragraph I. of said motion, this complainant alleges that said matters were disposed of in the Court's order of February 1, 1957.

II. In answer to the allegations in paragraph II. of defendants' motion to dismiss, this complainant states that this Three-Judge Court does have legal authority and jurisdiction to do what it did in the premises in that said Court in its opinion stated that due process of law would not be complied with if the complainants in this proceeding, who are the defendants in another proceeding, would be compelled to go to trial in the civil proceeding before they had had an opportunity to meet the allegations against them in the criminal proceeding. Complainant further states in reply to paragraph II, that a Three-Judge Court of the

United States has been granted authority and does have authority and jurisdiction to prevent irreparable damage and injury when there comes before said Three-Judge Court a sufficiently "unique" situation requiring the Court to exercise its jurisdiction.

III. In answer to paragraph III. of defendants' motion to dismiss, the complainant William W. Voisine alleges that this Three-Judge Court does have jurisdiction to prevent irreparable damage and injury, and for further answer thereto this complainant alleges that it is apparent that all the representatives of the People of the State of Michigan desire to do in this particular proceeding is to remove these complainants from office at all costs prior to the time that they meet trial on the criminal information which has been filed against them.

IV. In answer to the allegations in paragraph IV. of defendants' motion to dismiss, this complainant states that in each and every legal decision existing in the 48 states and in the Supreme Court of the United States, and in the statute providing for jurisdiction of a Three-Judge Court, and in the statute providing for injunction, that there has always been left a crack in the door wherein a complainant in a unique and unusual situation could enter and protect his constitutional rights. Complainant charges that in this particular hearing this Court has recognized the situation and issued a fair and proper order and said complainant denies that this Three-Judge Court has been guilty of any "arrogation of power". Complainant states that in these United States the only protection against a situation such as is before this Three-Judge Court is by this Three-Judge Court.

V. The complainant denies each and all of the allegations contained in Paragraph V. of said defendants' motion

to dismiss and for specific answer thereto expressly states that there exists within the citizens of the City of Ecorse power to protect themselves in the event they are not properly satisfied with the conditions of their own government by virtue of the provisions of Chapter 10 of the Charter of the City of Ecorse, namely, Section 7, which is quoted as follows:

> "Any elective officer may be removed by the qualified electors of the city, at the time and in the manner provided by the general laws of the State."

Complainant further charges that political rights are inherent in the people and not in the defendants in this action. The people of the City of Ecorse may vote, may start a petition to recall and it is significant that they have not done so, but that the only pressure brought against the city officials of the City of Ecorse is by certain representatives of the defendants herein named.

VI. In answer to the allegations contained in paragraph VI. of said motion, complainant for reasons hereinbefore set forth and hereinafter set forth denies the same.

In further answer to defendants' motion to dismiss, complainant William W. Voisine desires to call specifically to the attention of this Honorable Three-Judge Court the following items:

(a) That this is a motion to dismiss by two defendants only and not by all four defendants.

(b) That no changed condition or circumstance is set forth or alleged to have occurred between the Court's order of February 1, 1957, and the date of filing of said motion.

(c) That said complainants have not employed dilatory tactics in the Wayne County Circuit Court in the criminal proceeding therein pending against them.

(d) That the defendants on the other hand have done nothing whatever to speed up and to comply with the constitutional provisions to render to said complainants a speedy trial by jury.

(e) That the defendants herein in their motion to dismiss take a legal position contrary to the Declaration of Independence, the Common Law, the Constitution of the United States, the decisions of this Court and the decisions of the Michigan Supreme Court, because they desire to completely and utterly destroy a person's reputation during a period when that person is entitled to be cloaked with the presumption of innocence, which type of grand jury action was so recently criticized in the Florida Supreme Court in a case involving Circuit Judge George E. Holt of Dade County, Florida, decided on either February 27th or 28th (the exact date and citation of this ruling are at the moment not available to your complainant, except that the title of said case is State of Florida et al, George A. Brantigan, States Attorney vs. Interim Report of Grand Jury of Dade County).

(f) Complainant states that no evidence is included in said motion to dismiss, other than by an information and belief affidavit, that law enforcement has broken down in the City of Ecorse or that there exists any imminent peril that same will break down.

WHEREFORE your complainant William W. Voisine prays that the motion to dissolve temporary restraining order filed in behalf of two of the four defendants in the above entitled cause be dismissed and denied, and that this

Court's order of February 1, 1957, be continued for the following reasons:

1. That the Honorable Frank FitzGerald, Presiding Circuit Judge of Wayne County, is at present holding hearings on the motions to quash in the criminal indictment.

2. That said case has not been set for trial although nothing has been done on the part of the complainants herein to prevent said case from being set for trial.

3. That defendants have made no showing in their motion to dismiss that dilatory tactics have been employed by the complainants herein or that they have attempted to have the case set for trial and have failed.

4. That this motion is based upon a series of affidavits annexed hereto, together with Appendix "A" and Appendix "B" and by reference this complainant adopts portions of the answers of other complainants being filed with this Court which likewise bear upon this question which are not repeated in this answer for the sake of brevity.

And your complainant will ever pray.

Respectfully submitted,
By FRANCIS K. YOUNG
Attorney for William W. Voisine
1657 Penobscot Building
Detroit 26, Michigan
WOodward 1-7293

Dated: March 5, 1947.

AFFIDAVIT OF WILLIAM W. VOISINE

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.

William W. Voisine being first duly sworn deposes and says that he is one of the com- lainants in the above entitled cause and acknowledges that he has read the affidavit of Joseph A. Sullivan annexed to defendants' motion to dissolve temporary restraining order.

Deponent further says that if said Joseph A. Sullivan on information and belief has any information that gambling operations are still being carried on in the jurisdiction of Ecorse, that he should furnish said information to Chief Alvin Royal of the Ecorse Police Department, and said Chief of Police will forthwith take action thereon in the event the matter is not already under investigation.

Deponent further says that as Mayor of the City of Ecorse he has no power or authority to remove any executive from office in the City of Ecorse, nor does he have the right to suspend any such officer. Deponent states that in the City of Ecorse under the Charter of the City of Ecorse, a man is "presumed to be innocent until proven guilty", and that charges must be filed against a person sought to be removed from office and said charges properly proven by evidence.

Deponent further states that no charges have been filed against any officer of the City of Ecorse in accordance with the Charter and that newspaper accounts of what may or may not exist in the City of Ecorse do not constitute evidence and therefore cannot be used.

Deponent further states that when he defends his ouster and/or removal proceeding that it will be necessary for

him to call as witnesses certain people which are either under subpoena by the grand jury or have been indicted by the grand jury in order to refute the statements of a person who has confessed to the taking of graft, and who has confessed to lying on the witness stand, and that he cannot properly prepare his defense nor meet the charges against him if any of these witnesses feel that they may be involved in possible self-incrimination by taking the witness stand in advance of any criminal proceeding.

Deponent further says that he was subpoenaed back before the grand jury after he was indicted and compelled to testify, although he objected thereto and that he has been informed that other co-indictees were in the same situation as a result of which none of these persons desire to take the stand in the civil proceeding until and when they can fully and completely meet the issue in the criminal proceeding, because your deponent has been advised by his attorney that the representatives of the State of Michigan have stated on many occasions that they have not presented their full case against your complainant, nor have they endorsed all of the witnesses on the information that they intend to use against said complainant. Deponent further says that the representatives of the State of Michigan handling the case for the defendants named herein have sought always to try him in the newspapers and in a proceeding which they can control, and not before a court of proper jurisdiction where he may be protected by his Federal and Michigan constitutional rights, all of which is in complete violation and similar to the Florida Supreme Court decision referred to in other portions of this answer.

Further deponent saith not.

By William W. Voisine
William W. Voisine

[Duly verified]

AFFIDAVIT OF FRANCIS K. YOUNG

STATE OF MICHIGAN)
COUNTY OF WAYNE) ss.

FRANCIS K. YOUNG being first duly sworn deposes and says that he is attorney for William W. Voisine, Mayor of Ecorse, one of the complainants in the above entitled cause, and that this affidavit is made in opposition to a motion to dissolve temporary restraining order or in the alternative to pass on defendants' motion to dismiss filed by two of the four defendants in the above entitled cause.

Deponent states that each and all of the items contained in the defendants' present motion were before this Honorable Court at the argument on January 29, 1957, with the possible exception that the affidavit of the Deputy Attorney General which does not conform to law does include some new argumentative matters not raised during the argument before this Court, but which could have been raised before this Court on the 29th day of January.

Deponent further says that subsequent to January 29, this Court issued an order which was subsequently amended by the Court on February 1, 1957, which amended order is contained in the files and records of this Court.

Deponent further states that a defendant in the criminal proceeding, in order to protect his rights at the trial of a cause or his rights of review before the Supreme Court of Michigan, must raise certain points by a motion to quash and your deponent alleges that all defendants involved in the Montry conspiracy did file motions to quash.

Deponent further states that Judge Frank FitzGerald, Presiding Judge of the Wayne County Circuit Court, was

scheduled to commence hearing these motions on February 6th and 7th of 1957, but that on February 4th, without any request being made in connection therewith by your deponent as attorney for William W. Voisine, Judge Frank FitzGerald mailed to your deponent a letter, a photostatic copy of which is attached hereto, made a part hereof and referred to as Appendix "A".

Deponent further says that thereafter on February 7, 1957, a second notification of adjournment was mailed to your deponent by the Honorable Frank FitzGerald, Wayne County Circuit Judge, adjourning the hearing on said motions to quash to February 20th and 21st of 1957, and that a photostatic copy of this letter is appended to this affidavit and designated Appendix "B".

Deponent further states that on February 20th and 21st, one of the Complainants herein, namely, Francis Labadie, by and through his attorney Jerome P. Cavanagh, argued his motion before the Honorable Frank FitzGerald.

Deponent further states that the remaining time of said Court was consumed by the Attorney General for the State of Michigan and by Charles W. Jones, who represents certain defendants in said cause and at the conclusion of said hearing a continuance for argument on the remainder of the motions was ordered by the Court until Monday, February 25th.

Deponent further states that in this particular criminal proceeding he not only represents William W. Voisine but that he also represents two other defendants, namely, Rudy Hickey and Robert Neal, and that he has filed motions to quash in behalf of each and all of these three defendants, and likewise has prepared and filed briefs pertaining to the law covering the said motions.

Deponent further says that on Monday, February 25th, he received a call from Mr. Charles Farmer, Assistant Attorney General, advising that Judge Frank FitzGerald would not hear any additional motions until Thursday, February 28th, 1957, at 2:00 o'clock P.M.

Deponent further says that on February 28th at 2:00 o'clock P.M., Mr. Joseph Freed, representing Elmer Korn, one of the complainants herein, argued his motion to quash but that the State has not as yet replied to said argument and that the State is scheduled to make its arguing reply on Tuesday, March 5, 1957.

Deponent further states that Michael A. Guest, attorney for Albert Buday and Nick Stroia, made and completed his argument on Thursday, February 28th.

Deponent further states that at the time of the dictation of this affidavit that the schedule for March 5, 1957, is that the argument of the motion to quash for and in behalf of Elmer Korn, complainant herein, will be completed and that thereafter Vincent Fordell, a former United States District Attorney, who represents two defendants in the criminal proceeding, namely, John Bader and Walter Chase, is scheduled to argue after which Mr. Lawrence Burns, who represents Paul Sackenheim and Joe Kavalchik, is scheduled to argue.

Deponent further says that shortly thereafter at such time as the Court may designate he will argue the motions to quash in behalf of William W. Voisine, defendant in the criminal proceeding and complainant herein, together with the motions to quash of Rudy Hickey and Robert Neal.

Deponent further says that these motions to quash cannot in any manner whatsoever be considered as a dilatory

tactic, or a delaying action, because there was nothing to have prevented the representatives of the Attorney General's Department from requesting that the cases be set down for trial on a particular date at which time they would be referred to a judge for trial who could give due and proper consideration to the motions to quash prior to the impanelling of a jury.

Deponent further states, in his opinion from listening to arguments already made and from knowing the arguments yet to come, that there is more than an even possibility that all or some of the defendants in the criminal proceeding may be discharged or that the case may be referred back to the examining magistrate for a further examination, because one of the Assistant Attorney Generals stated in open court that the State had not presented its entire case against the defendants at the preliminary examination as a result of which the Honorable Frank FitzGerald, Circuit Judge, stated that he could only consider the evidence before him and that if the State of Michigan did not intend to rely upon the record before it that the State should immediately make a move for a further examination.

Deponent further states that actually if there has been any delay in the trial of the criminal proceeding that it is due solely to the representatives of the defendants herein, because at the preliminary examination in Grosse Pointe one particular defendant by the name of Amos Botts was discharged because the Justice of the Peace determined that there was not sufficient evidence or "probable cause" to bind over the defendant Amos Botts for trial in the alleged Montry conspiracy.

Deponent further says that approximately sixty days after Amos Botts was dicharged as a defendant in the alleged conspiracy by the Justice of the Peace in Grosse

Pointe, that the State of Michigan through the representatives of the defendants herein, then filed a petition for a writ of mandamus against Douglas Leo Paterson, Justice of the Peace of Grosse Pointe, alleging and claiming that he abused his discretion in releasing this particular alleged co-conspirator from the indictment.

Deponent further says that this matter has not been heard and should the Honorable Frank FitzGerald before whom this writ of mandamus is to be heard determine that Amos Botts should have been bound over, we then find ourselves in a situation where Amos Botts must be re-arrested, given an opportunity to make bail, be arraigned on the information, and he is likewise entitled to have the right to file a motion to quash. The alleged co-conspirator, Amos Botts, should the Circuit Court bind him over for trial, reversing the examining magistrate's ruling, might of course decide that he would appeal to the Supreme Court thereby tying up the criminal proceeding.

Deponent further states that none of these side issues and/or proceedings can be charged to the complainants herein because they are acts, deeds, moves and proceedings taken by the representatives of the defendants herein.

Deponent specifically charges that it is solely the motive of the representatives of the People of the State of Michigan to in some way force the complainant herein to be removed from office regardless of what may eventually happen in the criminal trial which could have been noticed prior to the time that this motion for a dissolution of the temporary injunction will be argued before this Court.

Deponent further states that he has examined with great care Rule 52 and this Court's order of February 1, 1957,

and that in his opinion it complies in all respects with Rule 52.

Deponent further states that the defendants in their motion to dissolve the temporary restraining order have not raised any new questions or shown any change in conditions that would enable them at this time to obtain a dissolution of the temporary restraining order.

Deponent further states that the affidavit of Joseph A. Sullivan attached to said motion is based entirely upon conclusions and is totally unwarranted, and is without foundation either in law and/or in fact.

Deponent further states that he has examined the charter provisions attached to the said motion and admits that they are part of the Charter of the City of Ecorse, however your deponent desires to call the attention of this Court to the fact that had the representatives of the State of Michigan proceeded properly in respect to removing police officers, they should have filed charges before the Police and Fire Commission of the City of Ecorse and then if the Police and Fire Commission failed to act they could have filed charges for removal by the Common Council of the City of Ecorse, and then if the Common Council failed to act, there might be some complaint that the officials of the City of Ecorse are not performing their duties.

Deponent further says that attached to the answer of Francis Labadie are certain resolutions adopted by the Council and Police and Fire Commission of the City of Ecorse to the effect that law enforcement in the City of Ecorse is entirely in the hands of Alvin Royal, Chief of Police of the City of Ecorse, who is a known political opponent of the complainants herein, and if law enforcement has broken down in said city it is directly within the re-

sponsibility of the Chief of Police because of the fact that the complainants herein have in no manner whatsoever interfered with the administration of the criminal statutes of the City of Ecorse or the State of Michigan.

Deponent further says upon information and belief that the police officers who have been indicted and who are included in the information, which is Appendix "C" attached to complainants' bill of complaint, are not parties to this cause, but by name are Alvin Gillman, who has been a member of the Police Force of the City of Ecorse for a period of twenty years; Roscoe Bobo, who has been a member of the Police Force of the City of Ecorse for approximately thirteen years and Roosevelt Lackey, who has been a member of the Police Force of the City of Ecorse for a period of seventeen years.

Deponent further says upon information and belief that these three police officers are totally free of criminal record and in their communities enjoy a good reputation, and since the indictment was issued they have been functioning with the police Department of the City of Ecorse in clerical duties under the instructions of Chief Alvin Royal to an extent where they cannot be said to be in charge of the administration of law enforcement in the City of Ecorse.

Deponent further says that the charter of Ecorse, the same as the statutes of the State of Michigan and the law of the United States, even though contrary to the statements of the representatives of the defendants herein, all indicate that when a person is accused of a crime that he is presumed to be innocent until proven guilty. Deponent further states that said person is entitled to have charges filed against him and that up to and including this date in the City of Ecorse, there have been no charges filed with any removing authority with the power to remove under

the Charter of the City of Ecorse against any lesser member of the Government of the City of Ecorse.

Deponent further says that as a result of this situation that the affidavit of Joseph A. Sullivan, Deputy Attorney General, and his quotation of the Ecorse Charter attached thereto, are totally irrelevant, immaterial and are based upon false and incorrect conclusions.

Deponent further says that a reading of this affidavit again emphasizes a desire of the representatives of the defendants herein to remove the complainants from office at any cost, regardless of whether or not they are convicted subsequently in any criminal proceeding.

Deponent further says that at the preliminary examination the only substantial witness presented by the People of the State of Michigan was William Montry, and that substantially all of his testimony was hearsay testimony brought in on the basis that he was an accomplice or co-conspirator.

Deponent further says that the transcript of testimony indicates that William Montry has given false testimony at the preliminary examination which conflicts with testimony that he gave at another proceeding before Judge Joseph A. Moyniham. Deponent further says that at the preliminary examination William Montry admitted that he had taken certain graft, but had not reported the same on the income tax return, and each member of this Court is familiar with the fact that when a person signs his income tax return that he does so under the penalties of perjury.

Deponent further says that in his opinion we therefore come down to a situation which is similar and like the case

of *Mesarosh vs. United States, 100 Law Ed. 807,* wherein the Supreme Court of the United States granted a writ of certiorari.

Deponent further states that in Vol. 1, Law Ed. 2d, No. 1, Advance Sheet of November 19, 1956, at page 1, this opinion is reported and if this decision is read by the members of this Honorable Three Judge Court, it will be seen that not only the Court but the lawyers are always in a quandary when we are forced with a situation where the main prosecuting witness is known to be at least in part a false witness. Finally in the last paragraph of this opinion, Mr. Chief Justice Warren, who delivered the opinion of the Court, stated:

> "The government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them. The interests of justice call for a reversal of the judgments below with direction to grant the petitioners a new trial."

Deponent further says that he calls this case to the attention of this Honorable Court principally for the reason that nothing has happened against the complainants herein in the criminal case pending before them in the Wayne County Circuit Court other than to have had the testimony of William Montry presented against them. Deponent further says in his opinion that this is weak, unreliable and that in all fairness the complainants herein, which are the defendants in the State criminal proceeding, are entitled to a fair and impartial hearing in the Circuit Court for the County of Wayne without being faced with a great amount of publicity and stigma that would be attached to an ouster and/or removal proceeding prior to the criminal case.

Deponent further says that on February 27, 1957, in the Supreme Court of the State of Florida, there was an opinion filed pertaining to the Dade Grand Jury Report Case, wherein the Florida Supreme Court stated:

"The person so condemned is just as defenseless as the medieval prisoner and the victim of the lynch mob; the injury to him is just as fatal as if he had been charged with and convicted of a crime. As stated in People v. McCabe, 266 N. Y. S. 363, 367, a case frequently cited in denouncing grand jury reports such as that with which we are here concerned: 'A presentment (report) is a foul blow. It lends the importance of a judicial document; yet it lacks its principal attributes—the right to answer and to appeal.

'It accuses but furnishes no form for denial. No one knows upon what evidence the findings are based. An indictment may be challenged—even defeated. The presentment is immune. It is like the "hit and run" motorist.

'Before application can be made to suppress it, it is the subject of public gossip. The damage is done. The injury it may unjustly inflict may never be healed.'

The wisdom of the foregoing rule is demonstrated by the grand jury report in the John W. Wright case, decided this date. Wright was castigated, humiliated and embarrassed by a presentment just short of indictment, although th record and holding of the trial court showed him guilty of no wrong-doing.

On the contrary, the Grand Jury presentment itself in one instance recognized the important service that Mr. Wright had rendered in presenting the entry of

a substantial judgment against the estate of Mrs. Dowling.

For the future guidance of the grand juries of this state, we repeat the admonition of In re Report of Grand Jury, supra, 11 state SO.2d 316, 318, that a grand jury 'will not be permitted to single out persons in civil or official positions to impugn their motives, or by word, imputation, or innuendo hold them up to scorn or criticism . . .

'Neither will they be permitted to speak of the general qualifications or moral fitness of one to hold an office or position. . . .'

Our holding in this respect is in line with the great weight of authority in this country that 'it is improper for a grand jury to present with words of censure and reprobation a public official or other person by name without presenting him for indictment, and the accused has the right to apply to the courts to have the objectionable matter expunged from the court record.'' Ex parte Faulkner et al., 251 S.W.2d 822 (Ark.1952), and cases cited.''

Deponent further says that we are presently engaged in hearings before the Honorable Frank FitzGerald, that he made an announcement at the outset of the arguments that he would hear all arguments, then give them study, due consideration and announce his findings. Deponent states that he does not know what the Honorable Frank FitzGerald of the Wayne Circuit Court will do pertaining to these items nor how quickly he will decide the same, but your deponent further states that we are in the same position before this Court as when your deponent argued on January 29, that it was possible for us to be removed from

office and yet be completely and thoroughly condemned by the newspapers and removed from office without any appropriate remedy.

Deponent further states that in the reading of all of the opinions of the courts of last resort from each of these United States and of the Supreme Court of the United States, that the door has always been left open for plaintiffs to stop a proceeding such as this Court has stopped in this instance where irreparable damage and injury can be done.

Further deponent saith not.

By Francis K. Young
Francis K. Young

[Duly verified]

AFFIDAVIT OF LAWRENCE A. BURNS

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.

Lawrence A. Burns being first duly sworn, deposes and says that he is an attorney-at-law practicing in the City of Detroit, County of Wayne and State of Michigan and that he is a member of the State Bar of Michigan and likewise is admitted to practice in the United States District Court.

Deponent further says that in one certain criminal case which is entitled People versus Voisine, et al, now pending in the Circuit Court for the County of Wayne, under No. 34,092, that he is the attorney for two alleged co-conspirators namely Paul Sackenheim and Joe Kovalchik.

Deponent further says that he has filed motions to quash certain information filed against these two defendants, which is scheduled for hearing on or about March 5, 1957 pertaining to said defendants and that he is familiar with all of the facts and circumstances pertaining to their connection with the so-called "Montry Conspiracy."

Deponent further says that while the preliminary examination was being conducted before a Justice of the Peace in the City of Grosse Pointe that he was advised by Francis K. Young, attorney for Willam W. Voisine that on page 8 of a document referred to as an Ouster or Removal Proceeding against William W. Voisine, Albert Buday, Francis Labadie and Elmer Korn which he has further been informed is attached to the plaintiff's Bill of Complaint and designated Appendix "B", that his clients are charged with having conspired with certain persons to be involved in illegal enterprises which comes within the

action to obstruct justice according to the claim of the representatives of the people of the State of Michigan.

Deponent further says that as long as he is attorney of record for the defendants Paul Sackenheim and Joe Kovalchik that he cannot honestly or fairly permit them to take the witness stand even to aid or assist William W. Voisine in the Ouster and/or Removal Proceeding to attempt to rebut or refute any conspiracy testimony given by William Montry while the criminal charge is pending against them, and that as a result of the peculiar situation he has advised Francis K. Young that in the event the Ouster and/or Removal Proceeding goes to a hearing that even if those two clients were called as witnesses by the people of the State of Michigan or by the defense, that it would be necessary for him to appear at the hearing with them and advise them to not testify on any matters that might possibly tend to incriminate them, both under the laws of the State of Michigan and under the Fifth Amendment to the Constitution of the United States in the conspiracy proceeding which is now pending in the said court and which to this date the Circuit Court for the County of Wayne has not set for trial because of the fact that the Honorable Frank FitzGerald presiding Circuit Judge, has not concluded that there was sufficient testimony presented at the preliminary examination to determine whether or not a crime was committed in the City of Ecorse and if so whether or not there is probable cause that these two particular clients should face trial in connection therewith.

Deponent further says that until the criminal proceeding trial involving the "Montry Conspiracy" actually commences and the people of the State of Michigan present their evidence that he will advise these witnesses not to take the witness stand because it might tend to violate their constitutional rights.

Deponent further says that in the criminal action on file in the Circuit Court for the County of Wayne in Cause No. 34,092, which is attached to plaintiff's Bill of Complaint in this cause and designated as Appendix "C", that there is endorsed thereon certain witnesses, namely William Page and Dave Edwards, whom your deponent represents in the proceedings before the one-man grand juror, Theodore E. Bohn, one of the defendants herein and that he likewise could not permit these witnesses as long as he is their attorney to appear before the defendant the Honorable John W. Conlin and give testimony that might be incriminating to themselves even though such testimony might be of value to William W. Voisine.

Further deponent saith not.

Lawrence A. Burns

[Duly Verified]

AFFIDAVIT OF CHARLES W. JONES

STATE OF MICHIGAN
COUNTY OF WAYNE } SS

Charles W. Jones being first duly sworn, deposes and says that he is an attorney-at-law practicing in the City of Detroit, County of Wayne and State of Michigan and further states that if called to the witness stand to testify that he can confidently testify to the matters set forth in this affidavit.

Deponent further says that in a certain criminal case which is the so-called "Montry Conspiracy" titled "People of the State of Michigan versus William W. Voisine, et al", Wayne Circuit Court No. 34,092, he is attorney of record for the following persons:

William Jones
Patrick Slitti
Irvin Steffes
Greelie Dukes
Harry Monks
Alvin Gillman
Roscoe Bobo
Roosevelt Lackey
J. C. Wall

Deponent further says that he has read and is entirely familiar with the Ouster and/or Removal Proceeding which has been filed and is presently pending before the defendant the Honorable John W. Conlin against William W. Voisine, Albert Buday, Francis Labadie and Elmer Korn.

Deponent further says that in accordance with the laws of the State of Michigan in order to protect the record in

behalf of his client that it was necessary for him to file motions to quash the action on file in the criminal proceeding, otherwise certain rights of his clients would be waived at the trial and on a subsequent appeal, if necessary.

Deponent further says that he argued before the Honorable Frank FitzGerald on February 20 and February 21 the motions to quash of William Jones and Patrick Slitti and that during the same session there was argument by Jerome Cavanagh, the attorney for Francis Labadie the motion to quash for and in behalf of Francis Labadie and that these motions have been taken under advisement by the Honorable Frank FitzGerald, presiding Circuit Judge for the Wayne Circuit Court in criminal matter.

Deponent further says that the only testimony of importance presented at the preliminary examination against his clients was hear-say testimony by an alleged co-conspirator named William Montry and that a representative of the Attorney General's office of the State of Michigan made a statement in open court to the effect that the People of the State of Michigan had not put in all of their case against the particular defendants so named.

Deponent further says and ventures the opinion that all or at least some of the defendants named in the criminal case will be discharged when the Honorable Frank FitzGerald makes his decision based upon said matters.

Deponent further says that Francis K. Young talked to him in reference to the necessity of presenting his clients as possible witnesses to rebut the testimony of William Montry in the ouster and/or removal proceeding when and if the same would be heard.

Deponent further says that he advised Francis K. Young that as long as he represents the above parties that he

could not permit them to take the witness stand until such time as it could be determined fully and completely what the State had proved against them because of the fact that through one or more of his clients the cross-examination in the ouster and/or removal proceeding might cause his clients to be compelled to answer questions which would tend to incriminate them under the laws of the State of Michigan and/or the United States in violation of both the laws of the State of Michigan and the Fifth Amendment to the Constitution of the United States, because it might tend to incriminate some of his clients, although it might be of great benefit and assistance to William W. Voisine.

Further deponent saith not.

Charles W. Jones

[Duly verified]

APPENDIX "K"

Order of Three-Judge District Court denying Motion to dissolve Temporary Restraining Order or, in the Alternative, to pass on Defendants' Motion to Dismiss.

(Filed and entered, April 9, 1957)

The paper filed by the defendants entitled, Motion to Dissolve Temporary Restraining Order or, in the Alternative, to Pass on Defendants' Motion to Dismiss is deemed a Motion for Rehearing, and

It appearing that there is nothing presented to the Court on the hearing of the said motion, or in the papers filed in support thereof, which was substantially different from that considered at the time the order of January 30, 1957 or the amended order of February 1, 1957 was entered, therefore,

IT IS ORDERED that the said motion be, and the same is hereby denied.

CHARLES C. SIMONS
Charles C. Simons
Chief Judge, United States Court of Appeals for the Sixth Circuit

Theodore Levin
United States District Judge
Eastern District of Michigan

Chief United States District Judge Lederle dissenting;

agrees that there is no reason for granting a rehearing but repeats that he thinks the case is ripe for disposition.

Detroit, Michigan
April 4, 1957.

A TRUE COPY

By E. James Chaffee

Deputy Clerk